

The Present Outlook for Trade Negotiations in the World Trade Organization

John Croome

With their wide range of concerns, developing countries cannot speak with a single voice in the World Trade Organization. But to the extent that they can present a common front and identify issues on which they can achieve gains, they will be better placed to help shape negotiations rather than react to them.



Summary findings

The Uruguay Round agreements established the World Trade Organization (WTO), overhauled and strengthened the GATT rules on trade in goods, and added rules on trade in services and intellectual property. Individual countries made wide-ranging commitments to liberalize trade policies.

A new round of multilateral trade negotiations may be launched in the year 2000 or soon after. Croome reviews the probable agenda for these negotiations and reactions thereto.

Agriculture is a certainty for negotiations, with agricultural exporters insisting on liberalized markets. Net food importers fear such reforms will increase food costs and endanger food security.

Trade in services is certain to be on the agenda, but some developing countries see little to gain in this area, unless their workers gain opportunities to provide services in other countries.

Many developing countries could benefit from further negotiations on tariffs.

Developing countries are determined to avoid opening up the Uruguay Round agreement on textiles and clothing. They also fear that any WTO agreement on

environmental issues will provide excuses to increase barriers on their exports. They all oppose WTO discussion of labor standards. They are divided about whether to reach an agreement on investment but tend to favor seeking an agreement on competition issues.

Developing countries' attitudes toward further WTO negotiations are divided; they tend to be negative, but may be shifting toward support.

Small and underdeveloped countries are unenthusiastic because they cannot participate effectively in negotiations in Geneva and are distracted by upcoming negotiations with the European Union.

Many developing countries feel their levels of commitment are already heavy, they need more time to absorb the consequences of their commitments, and it would be counterproductive to rush into another round of negotiations. They argue that industrial countries have yet to deliver on liberalization important to their trade.

Countries that favor negotiations favor a broad agenda for negotiations because they have relatively wide trade interests, best served by a single negotiation that offers something for all participants and allows tradeoffs.

This paper — a product of Trade, Development Research Group — is part of a larger effort in the group to assist developing countries liberalize their trade through participation negotiations at the World Trade Organization. Copies of this paper are available free from the World Bank, 1818 H Street NW, Washington, DC 20433. Please contact Lili Tabada, room MC3-333, telephone 202-473-6896, fax 202-522-1159, Internet address ltabada@worldbank.org. The author may be contacted at jcroome@compuserve.com. October 1998. (53 pages)

The Policy Research Working Paper Series disseminates the findings of work in progress to encourage the exchange of ideas about development issues. An objective of the series is to get the findings out quickly, even if the presentations are less than fully polished. The papers carry the names of the authors and should be cited accordingly. The findings, interpretations, and conclusions expressed in this paper are entirely those of the authors. They do not necessarily represent the view of the World Bank, its Executive Directors, or the countries they represent.

THE PRESENT OUTLOOK FOR TRADE NEGOTIATIONS
IN THE WORLD TRADE ORGANISATION

John Croome
World Bank
Permanent Observer to World Trade Organisation

SUMMARY FINDINGS

I: INTRODUCTION

II: POSSIBLE SUBJECTS FOR WTO NEGOTIATIONS

(a) Subjects already scheduled for negotiation

1. Agriculture
2. Services

(b) Other subjects covered by the WTO agreements

1. Institutions: the WTO, dispute settlement, trade policy reviews and “transparency”
2. Tariffs
3. Textiles and clothing
4. Technical barriers to trade/ Sanitary and phytosanitary measures
5. Trade-related investment measures
6. Anti-dumping
7. Subsidies and countervailing measures
8. Safeguards
9. Customs valuation
10. Preshipment inspection
11. State trading
12. Rules of origin
13. Import licensing
14. Regional trade agreements
15. Intellectual property
16. Government procurement

(c) Subjects covered by later WTO decisions

1. Trade and environment
2. Trade and investment
3. Trade and competition
4. Trade facilitation
5. Electronic commerce

(d) Labour standards

III. TOWARDS A NEW ROUND?

Summary Findings

The Uruguay Round agreements established the WTO, overhauled and strengthened the GATT rules on trade in goods, added rules on trade in services and intellectual property, and incorporated wide-ranging commitments by individual countries to liberalize trade policies. Developing countries, which played a marginal role in GATT activities and escaped many of its disciplines, are with minor exceptions fully bound by WTO rules. Although given extra time to adapt their policies and economies to the new rules, these transition periods are now ending, except for the least-developed countries. Many developing countries feel they need more time to meet their commitments, and argue that developed countries have yet to deliver on liberalization important to their trade. Nevertheless, several Uruguay Round agreements commit WTO Members to further negotiations, and many include review provisions. WTO work on environmental, investment and competition issues could also lead to negotiations, as could proposals by individual governments. A May 1998 decision of WTO Ministers calls for recommendations on "further liberalization sufficiently broad-based to respond to the range of interests and concerns of all Members, within the WTO framework". A new round - in fact, if not in name - of multilateral trade negotiations may thus be launched in the year 2000, or soon afterwards. The paper reviews the prospective agenda for these negotiations, and assesses the views of developing and other WTO members on each subject, and on the desirability of a new round.

Agriculture is a certainty for negotiations. Agricultural exporters, both developing and developed, will seek significant liberalization of markets, building on reforms agreed in the Uruguay Round. Some developing countries which are net food importers fear that these reforms may lead to increase food costs, and may seek assurances on security of supply. An effort is being made to find common ground between these views. The other certainty for negotiations is trade in services. Some developing countries see little to gain in this area, unless opportunities open up for their workers to provide services in other countries. Further negotiations on tariffs could offer greater scope for a balance of interests. Many countries would benefit if tariff peaks and tariff escalation in sensitive sectors such as textiles, clothing and shoes could be reduced, along with tariffs on specific products of export interest to them. Numerous developing countries, including some of the poorest, apply tariff rates well below their WTO-bound levels, and could gain bargaining power in the negotiations as a whole, without much loss of protection or revenue, if they offered reductions in bound rates. Negotiations on opening up government procurement could also offer bargaining opportunities.

Other ingredients for a new trade round are harder to discern. Developing countries are determined to avoid opening up the Uruguay Round agreement on textiles and clothing, which requires removal by

January 2005 of all existing bilateral restrictions on their exports of these products. They also fear that importing countries may resort, as substitutes for these restrictions, to changes in origin rules, anti-dumping measures, or measures justified as protecting the environment or labour standards - all further possible subjects for negotiations. Although the "built-in agenda" of the Uruguay Round agreements calls for self-contained reviews of a wide range of subjects, some may be included in new negotiations if separate agreements cannot be reached, or if the prospect of a broader negotiation, with give-and-take between subjects, encourages higher ambitions. This might apply to negotiations on intellectual property issues and subsidies, which include points of interest to developing countries. Developing countries fear that any WTO agreement on environmental issues will provide excuses to increase barriers to their exports. All oppose WTO discussion of labour standards. Some share the interest of many developed countries in reaching a WTO agreement on investment; others are strongly opposed. Developing countries tend to favour seeking an agreement on competition issues.

On the general desirability of a new round of trade negotiations, developing-country views on balance remain negative, but may be shifting towards support. Some countries continue to argue that because the Uruguay Round results represent an unprecedented level of commitment, and time is needed to absorb the consequences, it would be counterproductive to rush into another round. The least-developed and other very small countries are also unenthusiastic because they lack the capacity to participate effectively in negotiations in Geneva; many are also distracted by coming negotiations with the European Union. Other developing countries see positive aspects to a new round. Agricultural exporters believe that a broader negotiation could permit constructive trade-offs. Others see scope for special and differential treatment of developing countries (especially in agricultural negotiations, but also more generally), for productive tariff bargaining, and also for negotiations on some aspects of services. Review of WTO rules could provide opportunity for correction of what some see as inequities affecting developing countries. Those countries which favour new negotiations do so partly because of dislike of the alternative sectoral approach to liberalization, and partly (for differing reasons) because of regional moves towards free trade. They favour a broad agenda for negotiations because they have a comparatively wide trade interests, best served in the context of a single undertaking that offers something for all participants, and allows trade-offs.

With such a range of concerns, developing countries cannot speak with a single voice in the WTO. Some seek, however, to build ad hoc coalitions on particular subjects, so as to present a common front where possible, and to identify issues on which negotiations might yield clear gains for developing countries. To the extent that these efforts succeed, developing countries will be better placed to help define the content of future negotiations, rather than simply reacting to initiatives from developed WTO members.

I: INTRODUCTION

This paper is intended to offer a point of departure for research on trade issues of concern to developing countries that may be taken up in multilateral negotiations in the World Trade Organization. The 1994 Uruguay Round agreements established the WTO, overhauled the rules of the multilateral trading system, and incorporated wide-ranging commitments by individual countries to liberalize their trade policies. Many of the agreements commit WTO members to further negotiations, or to review of the new rules in the light of experience. This “built-in agenda”¹ has been supplemented by more recent WTO decisions to undertake additional work on specific subjects that could also lead to negotiations. Further proposals have been floated by individual governments, and have received varying degrees of support. Largely by coincidence, the negotiations foreseen under the built-in agenda, as well as many of the scheduled reviews, must begin in or around the year 2000. This inevitably suggested that these negotiations might be brought together as a single undertaking, comparable with past negotiating rounds in the WTO’s predecessor, the GATT. The likelihood that this will in fact happen has recently increased. A meeting of WTO Ministers in May 1998 agreed that officials should draw up recommendations for a work programme, based on the built-in agenda and later decisions, as well as on possible additional proposals by member governments. A further meeting of Ministers, probably in late 1999, will pass judgement on the recommendations, which are to include “further liberalization sufficiently broad-based to respond to the range of interests and concerns of all Members, within the WTO framework”.²

The main body of the paper reviews, for each potential negotiating subject, the commitments to future work undertaken by WTO members, the work already under way, and the main strands of thinking on the subject among the principal trading countries and developing countries. This subject-by-subject survey takes up, first, agriculture and services, the two subjects on which there is a firm commitment to undertake new negotiations. It then looks at other subjects already covered by WTO agreements. Many of these are covered by review provisions which could lead to further negotiations, and all are accepted as legitimate matters for consideration in the context of the WTO. As a third category, the paper considers subjects which, although not covered by existing obligations, are by agreement now under study in the WTO. A fourth group consists of a single subject -labour standards--which a few countries would like the WTO to take up. The paper concludes with a brief discussion of prospects for a new general round of multilateral trade negotiations.

¹ For a useful recent compilation of the elements of the “built-in agenda”, with accompanying notes on work undertaken so far, see the WTO Secretariat’s note *Implementation of the Provisions for Review, Future Work or Negotiations in the WTO Agreement and Related Decisions and Declarations* of 7 May 1998 (WTO document WT/L/271).

The paper takes account of developments up to July 1998, notably including the meeting of the WTO's governing Ministerial Conference in Geneva in May 1998.

The assistance is gratefully acknowledged of the representatives of developing and developed countries, both in Geneva and Brussels, who found time to talk off the record about their countries' trade concerns and to give their own assessment of present and prospective developments at the WTO. I have quoted some of their views, anonymously; those views which are attributed were stated publicly, in various contexts. I am also grateful for helpful comments on an earlier draft from a number of friends and colleagues and an anonymous reviewer.

² Ministerial Declaration approved at the end of the Second Session of the WTO Ministerial Conference, Geneva, 20 May 1998.

II: POSSIBLE SUBJECTS FOR WTO NEGOTIATIONS

(a) Subjects already scheduled for negotiation

Among the 28 substantive Uruguay Round agreements, many contain provisions which require that they undergo general review some years after their entry into force. Any such review could lead to negotiations on the subject concerned. Two agreements, however, go further. The Agreement on Agriculture and the General Agreement on Services (GATS) call specifically for negotiations to carry forward the process of liberalization embarked upon in the Uruguay Round. Because the negotiations on both agriculture and services will be broad in scope, will affect major trade interests of most countries, either as exporters or importers, and will be launched almost simultaneously, they are by general consent seen as the core subjects for negotiations in the WTO in the opening years of the new century.

The Agreement on Agriculture and the GATS share a centrally important characteristic. Each provides a framework of principles, rules and procedures whose practical significance largely depends on the specific liberalization commitments entered into by individual WTO members. Thus, for agriculture, the degree of actual liberalization that will be achieved by each country, when all the commitments it accepted in 1994 have been carried into effect, will be governed by the tariff bindings (maximum tariffs) and tariff quotas stated for each agricultural product in Part I, Section I, of its GATT schedule, and by the limitations on its use of domestic and export subsidies set out in Part IV of the same schedule. In the coming negotiations on agriculture, some of the rules may be re-examined, but it is expected that the main focus will, in the words of the WTO representative of one developing country, be on “putting new figures into the existing framework”: in other words, with setting lower tariff ceilings and more stringent limits on subsidies. For services, many key obligations in the GATS apply, as regards each member country, only to those services for which the country concerned has made liberalization commitments in its services schedule. Although the next round of negotiations on trade in services will give attention to improvements in the rules, its primary focus is likely to be on extending the reach of the present rules by adding to the coverage of WTO members’ services schedules.

1. Agriculture³

The commitment to new negotiations on agriculture is in Article 20 of the 1994 Uruguay Round Agreement on Agriculture. The Article states that “the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform is an ongoing process” and provides that “negotiations for continuing the process will be initiated one year before the end of the

³ See also Sanitary and Phytosanitary Measures, below.

implementation period". It specifies that the negotiations are to take into account (a) experience from implementing reduction commitments under the agreement, (b) the effects of these commitments on world trade in agriculture, (c) non-trade concerns, special and differential treatment to developing-country members of the WTO, and the objective to establish a fair and market-oriented trading system and other objectives mentioned in the agreement's Preamble and (d) what further commitments are necessary to achieve these objectives.

Article 20 thus implies that the negotiations on agriculture shall start by 31 December 1999⁴, this being one year before the end of the six-year implementation period during which developed countries are required to carry out their commitments to reduce or limit agricultural tariffs, domestic support and export subsidies. No termination date is specified. However, Article 13 of the agreement, the time-limited "peace clause" that restricts the right to take countervailing action against certain support measures and subsidies, is effective for a nine-year period. Its expiry at the end of 2002 may serve to encourage conclusion of the negotiations by that date. Even then, developing countries will still be twelve months short of the ten-year implementation period which applies to the specific commitments they have made under the 1994 agreement.

The commitment to new negotiations is not questioned by any government, and is accepted as one of the most challenging elements in the WTO's built-in agenda. Not surprisingly, the main exporters of agricultural products have been anxious to ensure that appropriate preparations be made in the WTO to ensure that the negotiations begin promptly. Importers, along with some other countries, have resisted any early start on real negotiations, but agreed⁵ at the WTO's Ministerial Conference in Singapore in December 1996 to include agricultural issues in the "process of analysis and exchange of information" launched at that time "to allow Members to better understand the issues involved and identify their interests before undertaking the agreed negotiations and reviews". This "AIE" process is now in progress, for agriculture, through informal discussions in the WTO's Committee on Agriculture. The meetings, closed to observers, are reported to be discussing "topics in the areas of market access, domestic support and export subsidies, as well as issues of interest to developing countries"⁶ – i.e., all the basic issues covered by the Agreement on Agriculture.

Although the papers so far discussed in informal AIE meetings have not been generally distributed, their titles, and reports provided to regular meetings of the committee, indicate that the issues under consideration are to a great extent those already signalled by regular meetings of the Committee on

⁴ This is often interpreted as requiring that negotiations begin by 1 January 2000. As agricultural exporters regularly point out, however, its strict meaning is that negotiations should begin before the end of 1999.

⁵ Ministerial Declaration of 13 December 1996 (WTO document WT/MIN(96)/DEC, para.19).

⁶ Report dated 24 November 1997 by the Chairman of the Committee on Agriculture to the General Council (document G/L/211). Papers submitted up to that time are listed in Annex II of the report.

Agriculture, which reviews implementation of member countries' Uruguay Round obligations. The great majority of the more than twenty national submissions have come from Australia, New Zealand and the United States, although Canada, the European Union and Uruguay have provided papers on specific matters. Papers by Pakistan, Peru and the Dominican Republic (jointly) and by Cuba, have dealt more generally with issues of interest to developing countries. The WTO Secretariat has been asked to provide background papers on many of the issues discussed. No less than six papers concern the application of tariff quotas. Differences between quota administration mechanisms employed by individual countries, and divergent interpretations of the Agriculture Agreement's provisions on this subject, have been evident in the committee's meetings. Other subjects which have elicited multiple contributions are domestic support and export subsidies, both widely regarded as principal issues for future negotiations, the "blue box" payments made by governments under production-limiting programmes, the special safeguard mechanism introduced by Article 5 of the WTO Agreement on Agriculture, the role of state-trading enterprises (seen variously as distorting agricultural trade or, on the contrary, as stabilizing supplies and prices), and special and differential treatment for developing countries. Further individual papers have discussed implementation of tariff commitments, sectoral trade liberalization, and data supplied through notifications.

In his report to the March 1998 meeting of the Committee on Agriculture on the latest round of informal discussions, the chairman of the committee said he would be consulting with members on how to focus further work on special and differential treatment for developing countries in the contexts of market access, food security, domestic support, export subsidies, notification requirements and technical assistance.

Australia, which led efforts by agricultural exporters before the Singapore meeting to launch the AIE process, provided some comments on the first meetings.⁷ In its view, the discussions had provided members with a better understanding of some of the issues involved, and should enable them to identify their interests ahead of the negotiations. Australia has also stressed, however, that all issues likely to be included in the next round of agricultural negotiations should be covered. The committee chairman's November report indicates that some member countries may not be ready for this: it mentions their reluctance at this stage to permit collection of information on trade flows on tariff lines which had tariffs resulting from the Uruguay Round tariffication process. This kind of basic data collection seems to be regarded by these governments as going beyond the AIE process. The same governments are unwilling to discuss, at this stage, what kind of framework, agenda and timetable, other than that provided by the Agreement on Agriculture itself, would be needed to initiate the negotiations. In summary, the AIE process is helping to identify and clarify issues for the coming

The summary report of the Committee's meeting of 19-20 March 1998 (document G/AG/R/14) includes the chairman's report on further AIE meetings held in January and March 1998.

⁷ Statement by Mr. Ted Delofski, Permanent Representative of Australia, to the WTO General Council, 16 December 1997 (WT/GC(97)/ST/4).

negotiations but –so far, at least-- is not significantly closing gaps between national viewpoints, nor tackling the practical preparations required for launching negotiations. Some members of the Cairns Group of agricultural exporters believe the value of the process will be exhausted by the end of 1998.

Because negotiations on agricultural trade have such a long history in the GATT, and there is no sign that governments wish to alter the basic approach adopted by the Agreement on Agriculture, it is reasonably clear what positions most individual WTO members will take in the negotiations. In general, each is expected to adopt much the same stance as in the Uruguay Round.

During the Round, the two principal protagonists in the agricultural negotiations were the United States and the European Community (European Union). The United States was seeking improved market access for its own wide range of export products, notably including grains, maize, soybeans, beef, poultry and citrus, and also advocated a complete prohibition on export subsidies, and limitations on domestic subsidies. The European Union adopted an essentially defensive stance throughout the negotiations, seeking to maintain as far as possible the market access restrictions and export and domestic subsidies that were the principal instruments of its Common Agricultural Policy (CAP). External pressures from its negotiating partners in the Round played a part in persuading the EU to accept the multilateral liberalization commitments that finally emerged. However, the extent of these commitments was dictated by reforms to the CAP which it undertook for largely internal reasons, these reforms themselves being the product of an extremely difficult negotiation among EU members that took place during the Round. The efforts of the United States were supported in most respects, and especially on export subsidies, by the Cairns Group of agricultural exporters, a group whose membership included both developed and developing countries and which succeeded in finding a common voice on most issues in the agricultural negotiations and in maintaining pressure for radical liberalization and reform. The European Union found allies in several quarters: among candidates for membership in the Union, who would expect to adopt the CAP; among some developing countries who feared the loss of preferential access to EU markets as a result of MFN liberalization; and from countries which maintained comparably protective regimes for agriculture, such as Norway, Switzerland, Japan and Korea. The efforts of the latter two countries to maintain their prohibition on imports of rice were an important strand in the negotiations. A group of developing countries which included Egypt, Jamaica, Mexico and Peru, among others, sought to protect the position of net food importing countries which feared a rise in their food costs as a result of cuts in export subsidies and other reforms. This comparatively clear-cut picture of the different interests in the Round was blurred by the existence of specific national aims at variance with the general stance of the country concerned: for example, the United States and Canada (a Cairns Group member) sought to maintain their highly protective regimes for sugar and dairy products, respectively.

The line-up for the coming negotiations is likely to be very similar. The United States will push hard for further liberalization, and will also want to take up specific aspects of the arrangements

established by the Agreement on Agriculture which it believes have not worked as they should, such as application of tariff quotas and some activities of state-trading enterprises. The European Union will again be engaged in reform of the CAP, this time under the combined pressure of continuing difficulties in meeting the budgetary cost of the CAP and the need to prepare itself for the accession of Eastern European countries which are far more dependent on agriculture than its present members. Neither the United States nor the European Union have yet spelled out their objectives. Cairns Group members have recently stated that the negotiations should “achieve fundamental reform which will put trade in agricultural products on the same basis as trade in other goods”. As in the Uruguay Round, they have stated a maximalist position which calls for “early, total elimination and prohibition” of all forms of export subsidies, deep cuts to all tariffs, tariff peaks and tariff escalation, removal of non-tariff barriers “without exception”, a substantial increase in trade volumes under tariff rate quotas, and elimination of all trade-distorting domestic subsidies. Cairns members will also pursue closer regulation of export credits for agricultural products, a declared but unfulfilled objective of the Agreement on Agriculture. They have endorsed the principle of special and differential treatment for developing countries.⁸ The positions of Japan and Korea will be affected by the looming expiry of the periods during which they enjoy special treatment for imports of rice. If Japan seeks to maintain exceptional restrictions on such imports, it will have to negotiate the right to do so, in exchange for “additional and acceptable concessions” during the year 2000 – that is, early in the main agricultural negotiations. Korea is in the same situation, except that its deadline is four years later.⁹ As regards meeting the concerns of net food importers, it has been suggested that the negotiations might include commitments to limit export restrictions, and possibly also export taxes, to assure them of greater security of supplies. However, sympathy with the net food importers appears limited, even among other developing countries, as it seems widely felt that supply developments since the end of the Uruguay Round have not borne out their fears.

Individual developing countries, whether or not they make common cause as members or sympathetic supporters of the Cairns Group or of the group of net food importers, will be pursuing improvements in market access for particular products of which they are competitive suppliers, in some cases for the first time. Examples are dairy products (Argentina), wine (Argentina, Chile and several Eastern European suppliers), frozen food and jams (Egypt), fruit and vegetables (Kenya and Mexico) and tea in bags (Sri Lanka). Given the general tariffication achieved in the Uruguay Round, improvements in market access will be largely a matter of tariff bargaining. As yet, little thought has been given to possible general formulas for tariff reduction. One important influence on negotiations is likely to be the extent to which regional moves to reduce agricultural tariffs have progressed by the time the WTO negotiations open. In particular, the APEC summit meeting of November 1997 agreed that fish and

⁸ Communiqué and “Vision Statement” of Cairns Group Ministers, Sydney, 3 April 1998. Members of the Group are Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Indonesia, Malaysia, New Zealand, Paraguay, Philippines, South Africa, Thailand and Uruguay. Hungary, a candidate for EU membership, withdrew from the group in February 1998.

fish products (excluded from the Agreement on Agriculture) should be included in a priority list for early APEC sectoral negotiations, and also agreed to take up the food sector as well as oils and oilseed products. Some countries will also hope to improve market access for their agricultural exports through negotiated changes in the administration of tariff quotas. Although the larger exporters have made the running on this subject in the AIE discussions so far, it concerns small producers too: several developing countries dependent on exports of sugar, rum, bananas and beef complain that complex quota arrangements are a serious hindrance to their trade.

One possible new element in future negotiations on agricultural issues is an effort currently being made in Geneva by an informal group of developing countries, including both members and non-members of the Cairns Group, to find common ground among themselves. The paper on developing-country issues contributed by Pakistan and others to the current AIE discussions in the Agriculture Committee is a first fruit of these informal discussions.

2. Services

Article XIX of the General Agreement on Services requires WTO members to “enter into successive rounds of negotiations, beginning not later than five years from the entry into force of the WTO Agreement and periodically thereafter, with a view to achieving a progressively higher level of liberalization”. The deadline for starting the first such round is therefore 1 January 2000. As in the case of agriculture, no termination date for the negotiations is set. The GATS does not have a general timetable for putting obligations into force comparable with that for agriculture. In principle, all GATS obligations entered into force on 1 January 1995 (although national schedules of services commitments may provide that particular concessions will become effective at later dates). Even developing-country participants in the new round of services negotiations in general should not, therefore, find themselves negotiating new obligations at a time when their previous commitments have yet to come into force.

Article XIX gives more guidance on the content of, and preparations for, these negotiations than the corresponding provisions of the Agreement on Agriculture. On content, the negotiations are to be directed to “the reduction or elimination of the adverse effects on trade in services of measures as a means of providing effective market access”. Due respect is to be given to national policy objectives and levels of development. Developing countries are to have flexibility for opening fewer sectors, liberalizing fewer types of transactions, progressively extending market access in line with their development situation and, when providing market access to foreign service suppliers, making access subject to conditions aimed at some broad objectives set out in Article IV. On preparations for the

⁹ Agreement on Agriculture, Annex 5.

negotiations, Article XIX calls on the WTO's Council for Trade in Services to carry out an assessment of trade in services in overall terms and on a sectoral basis, with reference to the objectives of the GATS, including those in Article IV. Negotiating guidelines are to cover two specific points of interest to developing countries: the treatment of autonomous liberalization undertaken by members since previous negotiations, and the special treatment to be given to least-developed countries. The question of credit for autonomous liberalization, in particular, is one which was never satisfactorily settled in the Uruguay Round. Countries which had recently liberalized their trade policies found that developed countries were unwilling to give them negotiating credit for doing so unless they accepted formal commitments not to re-impose restrictions. Mexico was a leader during the Round in seeking a means of obtaining some form of credit without giving such a formal binding, and may be expected to take the question up again in the coming negotiations on services.

Like other elements in the WTO work program, the new services round is covered by the decision at the 1996 Ministerial Conference to start a process of analysis and exchange of information "to allow Members to better understand the issues involved and identify their interests". Because priority was given in 1997 to completing two major sectoral negotiations already in progress, on basic telecommunications and financial services, the analysis and information exchange process is only just beginning. The Services Council agreed in May 1998 that the process should consist initially of a sector-by-sector discussion, during the period June-October 1998, of regulatory and other problems that might constitute trade barriers on which negotiations could be fruitful. As a preliminary step, the WTO Secretariat has prepared papers on the economic effects of services liberalization and on the shortcomings of statistics on trade flows in services¹⁰, as well as a series of notes on trade in individual service sectors. At some stage, the Services Council will also have to begin considering the guidelines and procedures for the coming negotiations, as required by Article XIX, but most delegations agree that it is too early yet to do so.¹¹ The expectation is that, as in the Uruguay Round, negotiations will be on the basis of specific requests and offers rather than an overall reduction formula.

Article XIX, as noted, foresees that the focus of future rounds of services negotiations should be the enlargement of market access. The fact that all present access commitments are recorded on the basis of positive lists (i.e., they state what access is permitted, rather than what is not allowed) is an indication of their comparatively limited coverage, and of the scope for further liberalization.

Four separate negotiations on issues of market access for services have taken place since the Uruguay Round ended, and have provided some lessons for the future. Sectoral negotiations in 1995-96 on liberalization of maritime transport services failed to produce an acceptable package, and were suspended, although with agreement to return to the subject in the broader negotiations from 2000. In

¹⁰ WTO documents S/C/W/26 and S/C/W/27 respectively.

this case, the principal lesson is perhaps that a separate sectoral negotiation is unlikely to succeed unless there is some balance of interest among participants in achieving such success. For services as for goods (where agriculture remains the leading example), it is hard to achieve significant results if countries with a significant weight in the negotiations are reluctant to liberalize a particular sector of trade and are not offered compensating openings in sectors of greater interest to them. Limited negotiations in 1994-95 on "movement of natural persons" ("Mode 4" in the GATS jargon) focused on securing commitments to allow individual qualified professionals such as computer specialists and other experts to work abroad. This is an area of particular interest to certain developing countries; some, indeed, such as Egypt and Kenya, see it as the principal aspect of the coming round of services negotiations in which they can look for real gains. India was especially active in the recent negotiations, and other countries such as Korea seem well placed to take advantage of opportunities that might arise in future for supplying --for instance-- civil engineering services that might include provision of necessary skilled labour. However, access by foreign workers to the domestic employment market is a notoriously sensitive issue in almost all countries. A common feature of the services schedules of WTO members is that although they show varying degrees of readiness to open their markets to foreign supply of services through cross-border transactions or through the establishment of foreign firms in the domestic market, all are extremely restrictive as regards Mode 4. The third and fourth post-Uruguay Round sectoral negotiations, on the supply of basic telecommunications services and financial services, experienced some delays but were both completed successfully in 1997. They showed what could be achieved if developed countries shared a strong commitment to success and developing countries, even if less enthusiastic, were prepared to go along. They also provided a reminder that unilateral liberalization of domestic policies affecting services, as well as goods, can open up fresh opportunities for multilateral negotiations. Many participants in the negotiations, having liberalized their telecoms and financial services markets, made considerably better market-opening offers in 1997 than they had as recently as 1995 and 1996. Most countries also committed themselves to a negotiated set of regulatory principles for telecom services, setting an interesting precedent for other service sectors. Continuing deregulation of national markets for services, as well as recognition by governments that the existence of WTO bindings helps to attract foreign investment, encourage optimism about prospects for improved market access and regulatory commitments for services. The United States, the most forceful participant in previous GATS negotiations, has indicated that it will be most interested in opening up "dynamic service sectors, such as express delivery, environmental, energy, audio-visual, and professional services".¹²

The coming round of negotiations will cover a number of other services-related matters. The GATS calls for two specific issues to be taken up not later than the year 2000: a review of the Article II exemptions by which many WTO members have retained the right to give better-than-MFN treatment to certain service suppliers, and an examination of whether the present narrow coverage of air

¹¹ S/C/W/31.

transport services could be extended. Neither issue has yet aroused much discussion. Other negotiations left over from the Uruguay Round, and now under the responsibility of the Working Party on GATS Rules, have made little progress, and may well also be caught up in the new general round. These concern safeguards (GATS Article X), government procurement (Article XIII) and subsidies (Article XV). The working party has as yet reached no agreement on whether the GATS should be equipped with provisions on emergency safeguard action, let alone on what form such provisions might take, although observers seem fairly certain that substantive negotiations will eventually take place. (Originally supposed to have been completed by the beginning of this year, the current deadline for their completion is 30 June 1999.) Developing countries generally favour creation of an emergency safeguard provision, and argue that its existence might make them more willing to take on liberalization commitments in the services sector. The major developed countries have yet to be convinced that safeguard rules for services are needed or indeed would be feasible. On both government procurement and subsidies, the working party is still at the stage of gathering information, and of exchanging preliminary ideas on the scope for negotiated rules. As far as concerns government procurement, there is an overlap with work elsewhere in the WTO, discussed below: possible disciplines to increase the transparency of government purchasing practices for both goods and services are under study in a working party set up after the Singapore meeting, and liberalization of public-sector purchases of services is widely thought most likely to take place in the context of efforts to enlarge the coverage and membership of the existing limited-membership Agreement on Government Procurement.

A further negotiation already under way concerns the supply of professional services, an aspect of Mode 4, and thus of particular interest to some developing countries. The right to supply professional services is in most countries subject to possession of specific professional qualifications, and to technical standards and licensing requirements. A joint initiative by India and the United States at the end of the Uruguay Round led to a decision¹² to seek “to establish multilateral disciplines with a view to ensuring that, when specific commitments are undertaken, such regulatory measures do not constitute unnecessary barriers to the supply of professional services”. Although negotiations under the decision have focused initially on regulations affecting the accountancy sector, the disciplines defined seem quite largely applicable to other professional services as well. Success in these negotiations could be helpful to some developing countries, particularly in Latin America, that are interested in gaining access to markets in neighbouring countries for services such as accountancy, law and engineering.

(b) Other subjects covered by the WTO agreements

¹² Speech by President Clinton at WTO Ministerial Conference, 18 May 1998.

¹³ Ministerial Decision on Professional Services, April 1994.

1. Institutions: the WTO, dispute settlement, trade policy reviews and "transparency"

The World Trade Organization itself, the much-strengthened and extended dispute settlement provisions, and the system of regular trade policy reviews were the main institutional innovations of the Uruguay Round. There is no indication that any member country seeks to call them into question in any fundamental respect, or to add substantially to them. However, their functioning could be affected by a US initiative, supported by Canada and now taken up by the WTO, to "consider how to improve the transparency of WTO operations".¹⁴

No provision exists for review of the WTO agreement, although that would not prevent changes being made if member countries so agreed. The main purpose of the agreement is to link, as a single set of obligations, the substantive trade rules embodied in the separate agreements on goods, services and intellectual property. Criticisms have been expressed on such matters as the slow-moving procedures for accession to the WTO, lack of substance in the role of the Council for Trade in Goods, and the level of the minimum budget contribution payable by countries with a small share in world trade. However, these problems are not inherent in the very broad terms of the relevant articles of the WTO agreement. Some could probably be overcome by appropriate administrative changes; in the case of accessions, the problem lies principally with individual acceding and member countries. At this early stage in the WTO's life, no country is asking for changes in the articles of agreement.

A full review of the Dispute Settlement Understanding (DSU) is to take place during 1998. A meeting of the Dispute Settlement Body in March 1998 agreed that, as a starting point, WTO members should submit informal written suggestions as soon as possible as to the issues that should be taken up. The separate Ministerial decision on the review, taken as part of the Uruguay Round package in April 1994, prescribes that the review shall be followed by a decision by the WTO's next Ministerial Conference (which will be held in late 1999) "whether to continue, modify or terminate such dispute settlement rules and procedures". Theoretically, the review could lead to abandonment of the tighter rules for handling complaints which have given the WTO the teeth which the GATT lacked. No one in fact expects this.

Criticisms of the DSU must be distinguished from those of the rules which it serves to enforce. A recent example of confusion is provided by some US comments on the outcome of an American complaint on behalf of Kodak about problems of access to the Japanese market for photographic film. The examining panel has been criticized for not taking into account claims that restrictive business practices contributed to these problems. Similarly, environmentalists have condemned a recent panel report which upholds a complaint by India, Malaysia, Pakistan and Thailand against a US law that

¹⁴ Ministerial Declaration approved at the end of the Second Session of the WTO Ministerial Conference, Geneva, 20 May 1998.

bans imports of shrimp caught by methods which endanger sea turtles. They argue that the WTO should put environmental goals ahead of the trade rules. However, WTO panels are called upon to judge disputes in the light of WTO obligations, and those obligations do not at present extend to competition issues, or give primacy to environmental goals. The Kodak and shrimp cases are arguments for negotiating multilateral rules on competition, or on trade-related environmental issues, not for changing the DSU. A more legitimate argument, heard in particular from some developing countries and especially from India, is that the WTO is proving to be a highly legalistic organization: far more so than the GATT, which in their view showed greater sensitivity in its rules to the need for equity, particularly in its treatment of developing countries. The DSU is a key element in bringing this new legalism to bear, since it provides the basis on which formal complaints can be brought against governments that do not fulfil their obligations under WTO agreements, and its rules deprive those governments of the possibilities of blocking a complaint that existed under the GATT. The current banana disputes are an example. When originally raised under the GATT, the complaints could ultimately be ignored. Under the automatic DSU procedures they cannot. This revelation has come as a severe shock to the banana producers, and to some other developing countries as well.¹⁵ However, as critics such as India acknowledge, the way to make the WTO more responsive to considerations of equity towards developing countries (or, it might be added, towards environmental concerns, considerations of public accountability or other non-economic ends deemed desirable) is to draft or redraft the WTO's substantive rules appropriately, rather than to deprive the organization as a whole of its teeth.

This said, criticisms have been levelled against the DSU's own rules and procedures. Responding to criticism from non-governmental organizations, President Clinton has proposed¹⁶ that "hearings by the WTO be open to the public, and all briefs by the parties be made publicly available" and that "the WTO provide the opportunity for stakeholders to convey their views ... to help inform the panels in their deliberations". Most WTO members can be expected to resist any such proposal, just as they reacted with outrage to the recent attempt of a non-governmental organization (the World Wide Fund for Nature) to submit its own "amicus brief" to a panel. Nevertheless, as at least some other WTO members recognize, public concerns about the accountability of a powerful new international organization demand a constructive response. The consistent and immediate leaking of supposedly confidential interim reports from panels, for example, although denounced by the WTO's Director-General, with support from many WTO member governments, suggests (as President Clinton also proposed) that present rules on publication will have to be eased or abandoned. More technical issues

¹⁵ St. Lucia's Foreign Minister, speaking for the ACP countries at a meeting in Barbados, has said that the WTO "failed miserably in the first test in which the interests of powerless developing countries were pitted against those of transnational corporations based in the leading industrialized world". (*Agence France Presse*, 8 May 1998.)

¹⁶ Speech by President Clinton at WTO Ministerial Conference, 18 May 1998. Detailed proposals (WT/GC/W/88 and WT/GC/W/92) were tabled by the United States and the European Union in the General Council on 22 July.

concern such matters as the right of a complainant to attend consultations held with another complainant on the same matter, and the rights of third parties in securing implementation of panel recommendations. In general, developing countries, like the weaker participants in any other legal system, recognize their interest in having an equitable, effective and accessible dispute settlement system in the WTO.

Developing countries feel themselves at a disadvantage in dispute settlement proceedings, particularly if the opposing party is (as is often the case) the United States or the European Union. The issues are often very technical, and developed-country governments can call on their own legal expertise, as well as that of legal advisers to the major corporations often involved. The WTO Secretariat's legal service is still small, and to the extent it can provide technical assistance does so largely on procedural matters. Developing countries involved in disputes are likely to find it necessary to hire expensive legal assistance; those who do so may find—as did the Caribbean banana producers—that their private legal advisers are excluded from panel hearings because they are not government officials. The latter problem appears to have been eased, but it is still felt that there should be a clear right for developing countries to have the benefit in panel proceedings of the presence of non-governmental legal or other experts. Some developing countries are consulting among themselves on these problems. One idea under discussion by them is that a legal service should be established within the WTO Secretariat specifically to advise developing countries on both procedural and substantive aspects of disputes in which they are involved. A possible alternative, less liable to jeopardize the neutral status of the Secretariat (which has already on occasion been attacked from both sides of the Atlantic as having unduly influenced the outcome of certain dispute proceedings) would be to establish funding for independent legal counsel.

The Trade Policy Review Mechanism, an essentially uncontroversial element in the WTO, is to be reviewed during 1999, with the results of the appraisal to be presented to the next Ministerial Conference. There is no indication that major changes will be sought by any WTO members. However, the prescribed frequency for reviews (every two years for the United States, European Community, Japan and Canada; every four years for the sixteen next-largest traders; and every six years—or longer for least-developed countries—for the rest) has been criticized, particularly by the European Community. More broadly, Switzerland has expressed doubts, which other members may share, whether this major activity of the WTO yields benefits commensurate with its costs.

“Transparency”, in the WTO, is a code-word with at least two meanings. In its first and older meaning, it refers to the policies and practices of governments. Article X of the GATT requires that trade regulations “be published promptly in such a manner as to enable governments and traders to become acquainted with them”. The concept has been developed much further over the years, and particularly as a result of the Uruguay Round. Member countries must now not only publish information about their trade-related policies and actions, but in many cases also notify such

information to the WTO. Present notification obligations are far-reaching and (in the view of many members, not all of them developing countries) burdensome. A post-Uruguay Round effort to identify requirements that might be superfluous, or could be simplified, yielded little, but may well be renewed in the context of reviews of individual WTO agreements. Smaller developing countries would particularly welcome any relief from their notification obligations, which form a significant part of their total WTO-related workload. More recently, the goal of greater transparency has been strongly advocated for the WTO itself by the United States, largely in response to pressures from non-governmental organizations, especially those interested in environmental and labour issues. The United States has long urged that some meetings, and particularly those on environmental matters, be open to the NGOs. President Clinton's proposal at the May 1998 Ministerial meeting that dispute settlement proceedings be open to the public, referred to above, was accompanied by a further proposal that the WTO should "listen to ordinary citizens" by providing "a forum where business, labour, environmental and consumer groups can speak out and help guide the further evolution of the WTO". Ministers responded, to the extent that they formally recognized "the importance of enhancing public understanding of the benefits of the multilateral trading system in order to build support for it", and agreed to consider how to improve the transparency of WTO operations.¹⁷ Canada, Denmark, the Netherlands and Norway appear to agree fairly whole-heartedly with the US call for greater transparency. As shown in an initial discussion in the WTO General Council in July 1998, other countries are much more reticent: many fear that the efficiency of the WTO could suffer if meetings are opened to the public, and developing countries are particularly reluctant to see greater weight given to environmental issues and the question of labour standards.

2. Tariffs

Negotiations to improve market access by reducing and binding import duties have been a core element in multilateral trade negotiations since the earliest days of the GATT. There is no provision in the WTO's built-in agenda for another round of such negotiations. In their Singapore declaration, WTO Ministers renewed a commitment to "progressive liberalization and elimination of tariff and non-tariff barriers to trade in goods", but did not include tariffs in the long list of subjects on which they agreed to start a process of analysis and exchange of information. Australia and New Zealand had pressed for tariffs to be taken up, but developing countries failed to give them support, apparently from lack of interest. Nevertheless, most observers agree that any broad round of multilateral negotiations in the WTO must cover tariffs.

¹⁷ Ministerial Declaration approved at the end of the Second Session of the WTO Ministerial Conference, Geneva, 20 May 1998.

In general, tariff reductions on industrial products agreed in the Uruguay Round are being brought into force in five equal annual instalments, of which the last will be made on 1 January 1999. As regards tariffs on agricultural products, phased reductions by developed countries will be completed on 1 January 2000. Some developing countries are phasing in reductions in agricultural tariffs over ten years, with the final cut not due until 1 January 2004, but many took advantage of an option which allowed them, if a duty was not already bound, of fixing new maximum tariffs ("ceiling bindings") which took effect immediately and are not subject to further reductions. Thus, with the exception of final reductions of agricultural tariffs that are being made by developing countries using the ten-year schedule, all tariff reductions as a result of the Round will be fully in effect by the time that the prospective wider WTO negotiations would begin.

However, this is not the whole story. Many countries are currently engaged in reducing MFN tariffs as a result of recent sectoral negotiations, notably those which led to the Information Technology Agreement reached in March 1997. Most of the 40-odd signatories of the ITA will phase out tariffs on the products concerned by 1 January 2000. Negotiations for an "ITA 2" have run into difficulty, but have been suspended rather than abandoned. Further sectoral negotiations are in prospect, particularly in the context of the member countries of APEC, whose economic leaders have identified fifteen product categories as candidates for early voluntary liberalization, with nine of these categories given priority and a target date of 1999 for starting the liberalization process.¹⁸ On a preferential basis, tariff reductions are taking place in Europe (mostly between, on one side, Western European countries and, on the other, transition economies which also have reached a number of free-trade agreements among themselves), in Latin America (especially among and with the members of Mercosur) and in Asia (notably among the ASEAN countries). Negotiations will open in September 1998 between the European Union and the more than 70 developing countries of the ACP group on replacement of the present Lomé Convention. The EU is currently proposing that the trade component of Lomé should be replaced by free trade area agreements. Applicants for WTO membership, of whom there are over 30, will be required to reduce and bind their MFN tariffs in the next few years. Most are being pressed to accept existing sectoral arrangements such as the ITA and the plurilateral Agreement on Civil Aircraft (which requires duty-free treatment of aircraft and parts), and to follow the example of those countries, mostly developed, which committed themselves in the Uruguay Round to zero or harmonized tariffs in sectors which include agricultural equipment, non-ferrous metals and pharmaceuticals.

With such a range of sectoral, preferential and accession tariff negotiations in progress, the prospects for a new multilateral tariff negotiation might seem dim. However, and in spite of the absence of any

¹⁸ The selected categories (with the priority sectors italicized) are *environmental goods and services*, the *energy sector*, *fish and fish products*, the food sector, *toys*, natural and synthetic rubber, *forest products*, fertilizers, *gems and jewellery*, the automotive sector, oils and oilseed products, *medical*

specific mention of tariffs in the May 1998 Ministerial declaration, there are signs that they are not. Enthusiasm for further sectoral agreements is not universal. As one Latin American comments, “cherry-picking” by negotiating free-trade agreements in easy sectors reduces potential support for broader negotiations. Other developing-country negotiators argue that their countries gain nothing in exchange for liberalizing sectors in which they have no trade interest; one speaks strongly of “salami tactics”. The ITA 2 negotiations apparently broke down largely because India and Malaysia objected, from opposite sides, to the proposed product coverage. On the other hand, another developing-country delegate suggests that political pressure on small countries is less in a sectoral negotiation than when across-the-board liberalization is being discussed. The APEC initiative, which at the time of writing appears to be running into trouble, stresses voluntarism (“each economy remains free to determine the sectoral initiatives in which it will participate”) and consistency with “broad-based multilateral liberalization”. In the absence of wider MFN negotiations, Mexico negotiates mutual tariff reductions with its Latin American neighbours but, as a senior official points out, liberalization already undertaken through its membership of NAFTA means that the marginal cost of joining in a WTO round would be very low. As for the acceding countries, their present negotiations are a one-way affair. They are required to open their own markets, but have no leverage to gain tariff concessions from WTO members. A multilateral tariff negotiation would provide their first chance to bargain in the WTO for improved access to export markets.

Among the developed countries, Australia and New Zealand have now gained considerable support, most notably from the European Commission and Japan. Observers claim to detect growing recognition by the United States of the limitations of the sectoral and regional approaches to tariff liberalization. Some developing countries, however –and quite apart from whether they would themselves be ready to reduce their own tariff levels-- doubt whether they could hope for significant gains from new negotiations. They feel that tariff levels in their export markets have in general been reduced to a level at which they are no longer a major concern, and are not very hopeful of significant progress in removing remaining tariff peaks and escalation affecting products of export interest to them. Among these remaining tariff problems, everyone cites textiles and clothing, leather and footwear; more specific national interests mentioned include petrochemicals (Argentina), consumer electronics (Hong Kong¹⁹ and ASEAN countries), rubber products (Sri Lanka), processed fruits, vegetables and other food products (Argentina, Colombia, Egypt and Sri Lanka). But both developed and developing countries express fears that these residual tariff obstacles are such sensitive issues that the governments concerned may not find the political will to tackle them seriously.

equipment and instruments, chemicals, civil aircraft, and telecommunications mutual recognition arrangement.

¹⁹ Hong Kong, as a customs entity distinct from the rest of China, retains its separate membership and voice in the WTO.

With no formal discussion yet of tariff issues in the WTO, not much thought has been given to how negotiations might be conducted. To the extent that a general tariff-reduction formula might be adopted, it is seen as logical that it should aim at harmonization rather than at a standard percentage cut, in order to reduce tariff peaks and escalation. Some developing-country delegates suggest that, in Latin America in particular, great scope exists for reducing the gap between applied and bound tariff rates, and that the resulting improved predictability of access to such markets as Brazil would be of value to other developing countries. Many of the smallest and poorest developing countries, too, maintain GATT-bound tariff rates well above their actual applied rates. They could gain some worthwhile bargaining power in future negotiations, without risking much loss of protection or revenue, if they were prepared to offer reductions in bound rates. The question, unresolved in the Uruguay Round negotiations, of how negotiating credit might be given for earlier autonomous liberalization is likely to be revived. Little is said in WTO meetings about the issue of erosion of preferences, probably because their principal beneficiaries are the countries least active in the WTO. In private discussion, representatives of these countries express fears (reinforced by the WTO condemnation of the European Union's banana regime, and by the latest EU proposals for replacing the Lomé Convention) that their preferential advantages are doomed gradually to disappear.

3. Textiles and Clothing

Along with agriculture, trade in textiles and clothing stands out as a WTO subject in which a large proportion of developing countries take a keen interest. Much more than for agriculture, they have developed common positions. These positions, however, are largely defensive.

Any discussion of developing-country interests in future negotiations in the WTO must first take into account the Agreement on Textiles and Clothing. It is at present, and will remain for the next six and a half years, the central fact in the policy environment for exports of textiles and clothing by developing countries to their principal markets in the developed world. Yet at the same time it is purely a transitional arrangement, designed to regulate the shift from an initial situation in which a network of bilateral agreements imposed quantitative restrictions on exports of textiles and clothing from developing to developed countries to one in which trade in the sector should be free of such restrictions and governed only by the normal GATT rules. This shift is taking place over three stages (1995-1997, 1998-2001 and 2002-2004). The agreement specifies the means whereby an increasing proportion of trade is being freed from quantitative restrictions ("integrated") and the amount of trade permitted under the remaining restrictions is being progressively enlarged. The agreement and all restrictions under it "shall stand terminated" on 1 January 2005, "on which date the textiles and clothing sector shall be fully integrated into GATT 1994". Extension of the agreement is explicitly excluded.

There is thus nothing in the text of the agreement to give rise to new negotiations in the WTO. It includes provisions for major reviews before the end of each stage, but these are intended only to assess how the transition is going. The first such review, recently completed, showed that developing countries are in fact very dissatisfied with progress so far. They feel that the importing countries (essentially now the United States, the members of the European Union, and Canada) have disregarded the spirit of the agreement by applying its letter in ways that have brought about little or no real liberalization so far, and by supplementing the effects of quotas by unjustified anti-dumping actions and restrictive rules of origin. They fear that so much liberalization is being left to the final years of the transition period that full integration may in fact not be achieved. For their part, the importers maintain that they are fulfilling their obligations, will continue to do so, and will meet the deadline of 1 January 2005 for final removal of quotas. They also complain of the level of tariff and non-tariff restrictions on imports of textiles and clothing maintained by developing countries themselves.

Faced by the possibility of new WTO negotiations starting around the year 2000, five years or so before the end of the transition period under the Agreement on Textiles and Clothing, developing-country exporters of textiles and clothing are anxious to avoid any opening up of the agreement. Although unhappy about how it is being applied, they can look forward to more substantial liberalization in the later stages of the transition period. Most seem to believe that, given the domestic pressures on governments of the importing countries, there is no realistic possibility of accelerating the removal of restrictions. And having paid already in the Uruguay Round package for final liberalization in January 2005, they are determined to avoid paying a second time in order to hold the importers to their side of the bargain.

This is at present the sole area in which developing countries have found a strong common voice in the WTO. Twenty-three exporting countries are members of the International Textiles and Clothing Bureau (ITCB), a body through which they coordinated their positions in the textiles negotiations during the Uruguay Round. During the recent major review of the Agreement on Textiles and Clothing in the WTO Council for Goods, the ITCB's chairman, the representative of Colombia, made the principal statements on the exporters' behalf, and its secretariat provided substantial supporting documentation. Individual exporting countries also spoke, with Hong Kong and Pakistan especially forceful and detailed in their arguments, but there was no breach in the exporters' common front. Nor was there any public expression of misgivings about early liberalization of trade in textiles and clothing by those developing countries often said to be able to compete only because of their quota entitlements under the agreement.

Provided this solidarity is maintained, any new WTO negotiations on textiles and clothing seem likely to be limited mainly to efforts to reduce the high tariffs prevailing in the sector. In favour of some success in tariff liberalization is the support it would receive from export interests in both developing

and developed countries. Against would be the resistance to be expected from the domestic industries which have been so successful over the years in persuading their governments not to liberalize, and which, in the USA, EU and Canada (and India) already face the imminent removal of quantitative restrictions.

Developing-country exporters of textiles and clothing express fears that importing countries will increasingly resort, as substitutes for present quantitative restrictions, to changes in origin rules, anti-dumping action, and measures supposedly introduced to protect the environment or labour standards. Their interest in these subjects, discussed below, is thus directly linked to their sectoral export interest.

4. Technical barriers to trade, and sanitary and phytosanitary measures

These two subjects can conveniently be taken together, although they are governed by separate agreements. The Agreement on Technical Barriers to Trade (TBT), an extended version of an earlier successful GATT agreement, demands that technical standards and regulations not be drawn up with the aim of restricting trade. It encourages the use of international standards, and calls for national testing and certifying bodies to avoid discrimination against imports and, as far as possible, to recognize other countries' tests and certificates. It includes elaborate procedures for notification and consultation, and provisions for technical assistance to developing countries and for greater flexibility for these countries. The agreement is fully in force. The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) is linked with the Agreement on Agriculture. Similar in its basic objectives to the TBT agreement, it recognizes the right of governments to take measures to ensure food safety and to protect animal and plant health, but requires that such measures be applied only to the extent necessary to these ends and that they be based on scientific principles and be maintained only on the basis of scientific evidence. The SPS agreement is fully in force for most countries, although least-developed countries have until the year 2000 to apply its requirements on the treatment of imports. Both the TBT and SPS agreements are widely regarded as important defences against the imposition of new non-tariff barriers that could nullify the dismantling of import duties and other traditional obstacles to market access.

The TBT agreement is subject to review every three years, and explicitly envisages that the committee responsible for it should make proposals for its amendment. The first review, held in 1997, endorsed the "capacity and potential" of the agreement to achieve its purpose, but identified a number of difficulties and problems encountered in its operation. No amendments to the agreement were proposed, but its governing committee reached more than twenty agreed conclusions which add up to a substantial work programme whose results will be examined at the next triennial review in the year 2000. Several proposed elements of the work programme concern technical assistance to developing countries, and the application of special and differential treatment to them, including measures to help

them develop their own capacity to prepare and adopt technical regulations and standards and a study of technical barriers to market access of developing country suppliers.²⁰

The first review of the SPS agreement is due this year, and has just begun. There is already speculation that the review may lead to negotiations. The agreement's rules have been the basis of some celebrated recent disputes in the WTO, and have the potential to give rise to others. One dispute, over a European Union ban on the use of growth hormones for beef cattle, went essentially in favour of the United States and involves very large US claims for compensation for trade losses: a WTO panel, supported on appeal, found that the EU had not met the SPS requirement of scientific evidence to justify the ban. Another EU-US dispute is brewing over EU members' reluctance to approve the sale of genetically modified corn and soybeans. Motives in both cases are no doubt mixed, but the crucial clash is between an aroused and fearful public opinion in Europe, and US conviction that the products concerned are safe. Such disputes, leading under the Dispute Settlement Agreement to unpalatable and binding conclusions, put severe strains on the SPS agreement and on the dispute settlement procedures as well.

Further challenges to the TBT and SPS agreements will almost certainly arise because the measures they regulate are instruments of choice for responding to pressures not only from domestic producers seeking protection, but also from environmentalists and other non-governmental activists. Packaging and labelling requirements, requirements that fishing methods do not harm dolphins or sea turtles, and regulations that limit the use of tropical timbers all fall within the ambit of the two agreements, and are liable to be found contrary to their provisions. Anxiety about the strains which high-profile disputes could put on the agreements, and on the WTO itself, is widespread.

Developing countries do not have a common position on the agreements, but they tend to express similar concerns. They feel ill-equipped, by comparison with the technologically advanced developed countries, to take part in formulating the international standards established in such bodies as the International Organization for Standardization (ISO) and the FAO/WHO Codex Alimentarius Commission, and favoured under the TBT and SPS agreements. They find the notification requirements under the agreements particularly burdensome. They say they have difficulty in finding out, and meeting, the standards applicable to their exports. (Burkina Faso, Kenya and Papua New Guinea, for example, cite difficulties in demonstrating that their exports of meat, fresh fruit and vegetables, and canned tuna, respectively, meet SPS requirements.) Some believe that many measures imposed ostensibly for environmental or public health reasons are in fact inspired by protectionist objectives. Members of the Cairns Group of agricultural exporters, however, are strong supporters of the SPS agreement, and in their April Ministerial declaration insisted that the SPS review should not be used as a pretext to relax present disciplines on the ground of non-scientific arguments.

²⁰ Report on the first triennial review of the TBT agreement (WTO document G/TBT/5).

An important aspect of the agreements, as seen by some thoughtful representatives of developing countries, is that they are potentially the most sensible means of channelling environmental concerns in ways that will not serve protectionist ends or put strains on the multilateral trade rules. If agreed standards can be formulated, in ISO and other international bodies, to take account of environmental objectives such as those laid down in multilateral environmental agreements, the potential for subsequent difficulties in the WTO could be greatly reduced.

5. Trade-related investment measures

The Uruguay Round negotiations which resulted in the Agreement on Trade-related Investment Measures (TRIMs) started out as an ambitious effort by the United States to establish new rules that would prohibit governments, when they authorize investments, from attaching potentially trade-distorting conditions to such authorizations. The outcome was modest: it simply identified five types of measure, notably including the imposition of local-content requirements on manufacturers, as being already contrary to the GATT requirements of national treatment (Article III) and avoidance of quantitative restrictions (Article XI). The agreement required that all such measures be notified. Developed countries were required to eliminate them by 1 January 1997. Developing countries, however, have until 1 January 2000 to do so, and least-developed countries until 1 January 2002. Moreover, developing and least-developed countries may be granted extension of their transitional periods if they can demonstrate "particular difficulties" in eliminating outstanding TRIMs, and the decision of the WTO's Goods Council on such requests is to take account the development, financial and trade needs of the member concerned. Some 25 developing countries have notified that they use TRIMs of the types covered by the agreement.

The TRIMs agreement is one of the few that envisages future negotiations. Like several other agreements, it is to be reviewed, in this case not later than 1 January 2000, with the possibility that appropriate amendments may be proposed to the Ministerial Conference. In addition, however, the review is to include consideration of "whether the Agreement should be complemented with provisions on investment policy and competition policy".²¹ When negotiated, this provision was widely regarded as establishing an opening for the more substantial negotiations on investment desired especially by the United States and also for the negotiations on competition issues which some developing countries considered would be necessary as a matter of balance. The provision may yet prove important, although separate discussion of investment and competition policy issues (see below) has in any case begun following decisions at the Singapore meeting in 1996. As far as the TRIMs agreement itself is concerned, no one at present seems to be suggesting changes in its provisions.

²¹ Agreement on Trade-related Investment Measures, Article 9.

6. Anti-dumping

The WTO anti-dumping agreement (Agreement on the Implementation of Article VI of the GATT 1994) was one of the most controversial reached in the Uruguay Round negotiations. Its key provisions prescribe how governments which use anti-dumping measures should establish the existence of dumping and of damage, or threat of damage, to domestic producers. They lay down procedures for anti-dumping investigations and decisions and for the imposition and termination of anti-dumping duties. Developing countries, in particular, were unhappy with the agreement, not least because of a number of concessions to US views made in the final days of the negotiations. The agreement is fully in effect for all WTO members, and has no provision for general review. One issue unsolved in the Uruguay Round remains open. The European Union and United States unsuccessfully sought explicit authority to act against efforts by suppliers to circumvent anti-dumping decisions by such means as carrying out final assembly of a product held to be dumped in a “screwdriver plant” in the importing country, or in a third country. While it was agreed that agreed rules on “anti-circumvention” action were desirable, and that discussions should continue in the Anti-Dumping Committee, no deadline was set and the discussions have so far been fruitless. (Member countries have not yet even reached a conclusion on their first topic for discussion: “What constitutes circumvention?”.) The WTO Ministerial meeting in Singapore set no work programme for anti-dumping apart from an effort to improve notifications and give more technical assistance to developing countries.

The pattern of use of anti-dumping action has shifted significantly in recent years. The Anti-Dumping Agreement was negotiated when almost all anti-dumping measures were imposed by the United States, European Union, Australia and Canada, and when it was widely thought that the reduction of tariffs and import restrictions could well lead these countries to rely increasingly heavily on anti-dumping and other forms of contingent protection. In fact, the most striking trend has been towards the use of anti-dumping measures by developing countries. Developing countries accounted for 17 out of 23 notifications of anti-dumping actions to the WTO during the period July 1996-June 1997, and the list of users is almost a roll call of the developing countries most active in the WTO: it includes Argentina, Brazil, Chile, Colombia, India, Indonesia, Korea, Malaysia, Mexico, Peru, the Philippines, Singapore, Thailand and Venezuela.²² Several of the actions taken were against suppliers in other developing countries. A number of countries, including China and transition economies now negotiating accession to the WTO, have said they will introduce anti-dumping legislation; Russia has just done so. One reported consequence is an increasing division of opinion inside US industry over anti-dumping issues: while some domestic producers, notably of steel, would still prefer rules that would allow easier introduction of anti-dumping measures, companies with strong export interests are more aware of the risk that weaker rules would expose them to greater risks in export markets. A further new element in the situation is that the WTO is now discussing

²² Annual Report of the Committee on Anti-Dumping Practices, G/L/204 (Annex B).

competition issues, and might one day negotiate on them. Hong Kong, Korea and Mexico have pointed out that effective competition rules could make anti-dumping action superfluous.

All of these changes seem bound to affect the outlook for any future multilateral negotiations on the anti-dumping rules. The United States, keenest in the Uruguay Round to tighten up the rules, no longer appears to seek changes, although it still wants the existing rules applied stringently. Some of those developing countries which use anti-dumping measures apparently find the rules hard to apply, and would like them eased. Practical experience with the rules, as revealed in the Anti-Dumping Committee, is that they are sometimes applied arbitrarily, and that notifications to the WTO are inadequate. Hong Kong, the most articulate leader of efforts during the Uruguay Round to restrain the use of anti-dumping measures, shares with Japan and Mexico an interest in pursuing the issue further, and it has been suggested that these countries, and others, could form an alliance on anti-dumping equivalent to that which the Cairns Group provides for agricultural exporters. Elsewhere, however, there are doubts whether a basis exists at present for constructive negotiation on the anti-dumping rules. Some developing countries continue to fear that anti-dumping measures may be used as substitutes for other restrictions, particularly the quantitative restrictions being phased out under the Agreement on Textiles and Clothing, but they see this as reason for close attention to how the rules are being applied, rather than for changing the rules themselves. In sum, it appears unlikely at present that significant changes will be made to the element in the Uruguay Round package most widely criticized by outside observers.

7. Subsidies

Among the Uruguay Round agreements, that on subsidies and countervailing measures is perhaps the only one whose provisions are significantly less stringent for developing countries and countries in transition to a market economy than for developed countries. In general, the agreement prohibits subsidies contingent on export performance or the use of domestic rather than imported goods, and permits certain other subsidies such as those for basic research and to help disadvantaged regions. All other subsidies are "actionable", the right to use countervailing measures being dependent, as in dumping cases, on whether the subsidy concerned causes or threatens injury. The agreement is not fully in force. Although the deadline for developed countries to phase out prohibited subsidies has passed, least-developed countries and countries with per capita GNP below \$1,000 may maintain export subsidies indefinitely, and all other developing countries have until January 2003 to remove them, with a possibility of extension in particular cases if this is found justified by economic, financial or development needs. Countries in transition to a market economy must phase out prohibited subsidies by January 2002; until then, they also enjoy some immunity from countervailing measures against their actionable subsidies.

The subsidy agreement figures in the WTO built-in agenda: two important rules in the agreement apply only provisionally, and must both be reviewed during the second half of 1999. One establishes a presumption that certain subsidies, such as those which amount to more than 5 per cent of the value of a product or are given to cover an industry's operating losses, give rise to adverse trade effects. This presumption does not, however, apply to developing countries. A second review is to decide whether the permitted ("green") category of subsidies should continue to exist: the United States, in particular, has never been convinced that any specific subsidies can be wholly harmless to trade. Two further reviews, one also during 1999 and the other at the end of the year, concern respectively an issue linked with the green category of subsidies and experience gained of the export competitiveness rule (Article 27.6) which makes the right of developing countries to give export subsidies subject to the product concerned not gaining more than 3.25% of the world market.

Little, if any, interest is expressed in Geneva at present in new negotiations on subsidies, even if the 1999 review requirements provide an opportunity to open up the agreement. Concern is far more with the implementation of the agreement than with its rules: many WTO members have provided little or none of the information they should have supplied more than three years ago about how they are meeting their obligations to bring their subsidy regimes into line with the rules. And as far as developing and transition countries are concerned, this is a particularly clear instance of an agreement whose consequences they have yet to digest.

8. Safeguards

The Agreement on Safeguards emerged from the Uruguay Round in 1994, some twenty years after efforts began to overhaul the ineffective Article XIX of the GATT. It represents a trade-off which outlaws "grey area" restrictions such as voluntary export restraints in exchange principally for a special mechanism that, in certain circumstances, allows departure from the general MFN rule to apply particularly tight restrictions to the most dynamic suppliers. This "quota modulation" provision (Article 5:2(b)), highly controversial when negotiated, has so far remained unused, perhaps because anti-dumping or countervailing measures can be more easily and less provocatively applied. The agreement is fully in force (except that a special provision allows the European Union to continue to restrict imports of Japanese cars until the end of 1999), and has no review provisions to figure in the WTO's built-in agenda. No government appears to seek changes in the agreement, but developing countries will continue to keep close watch on how it is applied.

9. Customs Valuation

The Customs Valuation Agreement (Agreement on Implementation of Article VII of the GATT 1994) is a barely-modified version of the Customs Valuation "code" negotiated during the Tokyo Round of the 1970's. The agreement lays down a hierarchy of valuation methods which must be followed by customs officers, with the central purpose of basing valuation for customs purposes on the actual value of the goods concerned. Few developing countries signed the original code, mainly because of fears

that it would hamper their ability to challenge traders who might understate the value of goods. In response to this concern, a 1994 Ministerial decision allows developing countries some greater flexibility in applying the agreement's rules. The agreement is fully in force for developed and developing signatories of the original code, who include Argentina, Brazil, Hong Kong, India, Mexico, and Zimbabwe. Other developing countries are not required to apply the rules of the valuation agreement until January 2000, and can request a further extension; they also have an extra three years before they need use one of the specified valuation methods, and will retain some further flexibility in other respects. Some 50 countries are taking advantage of these provisions, which recognize the considerable effort of adaptation involved in introducing the new valuation rules, and particularly in customs services to apply the rules. A similar effort will be required of those developing countries, as well as countries in transition to a market economy, that accede to the WTO in the next few years. At the instigation of the United States, an effort is under way to step up technical assistance to countries introducing the customs valuation rules, but even so, some of the smaller developing countries are doubtful whether the transition periods available to them are long enough. The agreement itself has given rise to few difficulties, apart from the familiar problem of late or missing notifications, and seems not to be on anyone's list of prospective WTO negotiations. It is however another significant element in the post-Uruguay Round workload that makes many developing countries hesitant about embarking on new negotiations.

10. Preshipment inspection

The Agreement on Preshipment Inspection (PSI) was negotiated in response to increasingly widespread use by developing countries of the services of private inspection companies to reinforce their customs administrations by checking, often in the exporting country, that the real value of goods matches their value as declared for customs purposes. Exporters were concerned that PSI could hamper trade through extra costs and delays, and could interfere with contractual relationships between buyer and seller by imposing changes in agreed prices. Guidelines are laid down for the use and activities of inspection firms, along with procedures (which include an independent review body, thus far unused) to resolve disputes. The agreement provides for triennial reviews. The first such review took place in 1997, and is acknowledged to have shown the existence of many problems.²³ The working party which carried out the review made recommendations both for immediate and longer-term action. These include emphasis on the ultimate responsibility of governments for customs valuation and revenue collection, and the need for inspection entities to observe confidentiality, avoid conflicts of interest and issue their findings promptly. Work will continue in 1998 on a number of points, including a possible code of conduct for PSI entities. The eventual outcome could include some amendment of the agreement. More than 30 developing-country members of the WTO, the great majority African countries, appear to use PSI companies for customs

²³ Report of the Working Party on Preshipment Inspection to the General Council, G/L/214

purposes²⁴, and thus have a clear direct interest in this work. However, no one appears to be suggesting that improvements to the PSI agreement, even if negotiations were to prove necessary, would need to be linked with, or await, future WTO negotiations on other subjects.

11. State trading

The WTO's built-in agenda includes continuing work, without a deadline, on the issue of state trading. Article XVII of the GATT, clarified by an Uruguay Round Understanding on that article, is intended to prevent enterprises that are government-owned, or which have been granted exclusive or special rights or privileges by the government, from using their powers to distort trade by favouring particular suppliers, subsidizing exports or fixing high prices. A working party set up under the Understanding to examine notifications by WTO members of enterprises covered by the definition reached agreement in April 1998 on a new questionnaire for the notifications (the old one had stood unrevised for nearly thirty years) and is now developing an illustrative list of relationships between these enterprises and their governments, and of relevant activities. This work should be completed during 1998, and the obvious next step, if member countries so agreed, would be to consider ways of tightening the disciplines of Article XVII.

The United States and the European Union would like to move on to this stage. In part, this is because they have specific problems with the role played by agricultural marketing boards in some other developed countries – above all with Canada, but also with Australia and New Zealand. Canada's administration of tariff rate quotas for milk and dairy products, the subject of a current dispute with the United States, is seen as an example of how a marketing board can prevent a market-opening agreement from having its expected effects. But the US and EU also suspect marketing boards in general of being used to cloak subsidies and protection for domestic producers.

At the present fact-finding stage of WTO work on state trading, the United States and European Union have found some allies among agricultural exporters, particularly Argentina and Colombia. (The Cairns Group's "Vision Statement", however, is silent on the subject, presumably because of differences among its members.) Less enthusiasm is shown by other developing countries. Many of them make substantial use of marketing boards and other state-trading bodies and are on the defensive in the working party and in the Committee on Agriculture, where they argue that such bodies help stabilize markets and provide food security. In private discussion with these countries the subject of state trading is not raised, but they seem likely to resist any proposals to move in a direction that could lead to early negotiations.

²⁴ Figure based on table showing use of PSI companies in *New York Journal of Commerce*, 31 December 1997.

State trading practices are a major issue in accession negotiations, where the present WTO members can, and do, demand that applicants provide specific undertakings to ensure that tariff and other commitments genuinely lead to market access. However, there is no link at present between these negotiations and the review of Article XVII.

12. Rules of Origin

The Agreement on Rules of Origin differed from most Uruguay Round agreements in launching, rather than concluding, a negotiation. Governments agreed on a number of guiding principles for rules of origin: that they should not in themselves be used as instruments of trade policy; that they should be objective, predictable, coherent and based on positive standards; and that a particular good should be held to originate in the country where it has been wholly obtained or, if more than one country has been concerned with its production, where it was last substantially performed. But the central element in the agreement was the decision to develop and adopt a single set of harmonized rules of origin that would be applied by all WTO members for all purposes except establishment of preferential status. This massive task requires that rules be worked out for the entire Harmonized System tariff classification, with a rule for every line. The basic work is being done by the Technical Committee on Rules of Origin of the World Customs Organization, which passes on its conclusions for each product group to the WTO's Committee on Rules of Origin. If the Technical Committee has not reached consensus on a rule, it proposes alternatives on which the WTO body can make a decision on trade policy grounds. Rules of origin can be crucially important in deciding the treatment given to imports of some products, notably textiles and clothing, chemicals and machinery, particularly when quantitative restrictions, safeguards, or anti-dumping or countervailing measures are in force. In consequence, decisions on the rules can be very sensitive, and require negotiation. The work has fallen well behind schedule. Successive deadlines for completion have been missed. The latest postponement, from July 1998 until the Ministerial meeting in late 1999, raises the strong possibility that the issue will be caught up in wider negotiations.

There is a broadly based interest among WTO members in establishing harmonized rules of origin, since agreement would remove from international trade an important element of uncertainty and a favoured instrument for protectionist action. Developing countries recognize that they could have large trade interests at stake. This is particularly the case for trade in textiles and clothing, and they are anxious that restrictive rules of origin should not be used as substitutes for, or reinforcements of, the quantitative restrictions being phased out under the Agreement on Textiles and Clothing.

As already mentioned, the Agreement on Rules of Origin does not extend to rules which govern qualification of goods for preferential treatment. A "common declaration" attached to the agreement states that some of the agreement's basic principles, such as clarity, predictability and transparency, will also be applied to preferential rules of origin. Notably, however, the declaration makes no

promise to apply other principles such as the determination of origin on the basis of where the last substantial transformation of a product was carried out, or the non-use of rules of origin “as instruments to pursue trade objectives directly or indirectly”. As it stands, therefore, the agreement offers no help in curbing the use of deliberately trade-distortive rules (such as NAFTA’s “yarn forward” rule) applied within some regional arrangements.

13. Import licensing

The Agreement on Import Licensing Procedures, which builds on an earlier limited-membership code, lays down principles and rules to prevent non-automatic licensing (normally a tool for administration of quantitative restrictions) and automatic licensing (used mostly to establish trade statistics) from becoming trade barriers in themselves. It is fully in force, and no country appears to seek changes in its provisions that might involve negotiations. The first of its two-yearly reviews, in 1996, as well as subsequent reports, show that the main problem encountered with this uncontroversial agreement is the same as afflicts the operation of many others: a large proportion of member countries do not fulfil their obligations to notify relevant legislation, procedures and actions.

14. Regional Trade Agreements

WTO Ministers, at their meeting in Singapore in 1996, acknowledged that regional trade agreements have “expanded vastly in number, scope and coverage”. They also stated that such agreements “can promote further liberalization and may assist least-developed, developing and transition economies in integrating into the international trading system”. Recently WTO Director-General Renato Ruggiero, who like his immediate predecessors had previously taken the optimistic view of regional agreements as “building blocks” for wider trade liberalization, has been showing more concern about their impact on the multilateral trading system.²⁵

Article XXIV of the GATT, which sets out the rules for customs unions or free trade areas, has well-known areas of ambiguity which have allowed large numbers of regional trade areas involving GATT/WTO members to come into existence even though almost none of the agreements has been formally found totally compatible with the rules. A 1979 Understanding on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (the “Enabling Clause”) provides a further degree of flexibility for agreements among developing countries, and a new and so far untested provision in the GATS (Article V) is the equivalent, for services, of GATT Article XXIV. During the Uruguay Round, a minor interpretative Understanding was reached on Article XXIV. This cleared up a number of largely technical points. However, it fell far short of the ambitions of some governments that are not members of the major regional agreements, and that

²⁵ Speech in Washington DC on 15 April 1998, reported in the *Financial Times* of 16 April.

believe, in particular, that Article XXIV has been used as cover for discrimination against non-members by groupings that do not establish genuinely free internal trade.

In 1996 a new WTO Committee on Regional Trade Agreements was set up to provide a single body to review new or enlarged arrangements, to improve examination and reporting procedures, and “to consider the systemic implications of the regionalism/multilateralism relationship”. In its first task, it appears to be a success, except to the extent that progress is held hostage to the disagreements on systemic issues, and there is no suggestion that a change is needed. On reporting procedures, it agreed in February 1998 on three sets of recommendations, covering obligations under GATT Article XXIV, the Enabling Clause and GATS Article V. However, these recommendations are regarded by some countries as less binding than they should be: the European Union and Canada, in particular, believe that the provision of trade statistics should be obligatory rather than just “desirable”.

The discussion of “systemic implications of the regionalism/multilateralism relationship” might well contain the seeds of a future negotiation, since Ministers agreed in Singapore that it was important “to analyze whether the system of WTO rights and obligations as it relates to regional trade agreements needs to be further clarified”. The committee has spent considerable time on this work during the past year, and recently launched a work program which covers legal analysis of the relevant WTO provisions, comparison of regional trade agreements, and “debate on context and economic aspects”. The legal analysis has largely focused on two ill-defined concepts in Article XXIV: “other regulations of commerce” and “substantially all the trade”. The comparison exercise will be launched shortly, on the basis of an inventory, just completed by the Secretariat, of non-tariff provisions of customs unions and free trade areas notified to the WTO.²⁶ The coverage of the work program’s “third prong”, the debate on the context and economic aspects of regional trade agreements, remains to be seen, but would presumably allow discussion of other matters such as the proliferation of hub-and-spoke agreements.

A very large proportion of WTO members, both developed and developing, are already members of regional trade agreements. Most others seek to establish or further develop regional links. Although these countries generally endorse the central WTO principle of non-discrimination, and may even express concerns about the impact of regional agreements on the integrity of the multilateral trading system, in practice they appear reluctant to tighten the relevant WTO disciplines. To do so could reduce the degree of flexibility that they now enjoy in negotiating new agreements or else require that they adjust the terms of agreements already in force. In the Committee on Regional Trade Agreements, the pressure for tighter rules comes largely from four members: Australia, Hong Kong, Japan and Korea. None carries decisive weight in the WTO, and they have received little support.

²⁶ WTO document WT/REG/W/26.

The committee's work program has not, at least so far, broken new ground, and there is speculation that the exercise is running into the ground. The attitude of the United States and the European Union will be crucial. So far, they do not appear to have decided what they want. If they were to decide in favour of strengthened rules, an eventual negotiation would be likely, but its value could well depend on whether they sought to have their own existing agreements "grandfathered" (i.e., exempted from the additional disciplines). A few years ago, the United States could have been expected to favour stricter rules – but that was before it developed its present enthusiasm for establishing free trade areas with other countries in the Americas and beyond. Meanwhile, the EU has become the centre of a network of free trade agreements linking other European countries with it, and among themselves. (The Secretariat inventory just mentioned notes that of 59 free trade area agreements notified to the GATT and WTO and currently in force, 52 involve European countries, and that of these 52, 41 have been signed since 1990.)

One additional factor that may shape the European Union's approach is its need to replace, by early 2000, its Lomé agreement with the 71 ACP countries. These include the majority of the world's least-developed countries as well as nearly thirty further small and vulnerable economies. Virtually all of them are heavily dependent on trade with the EU. The WTO legal cover for the preferential trade provisions of the present Lomé Convention takes the form of a waiver, which requires exceptional justification, a termination date, annual reviews and either a consensus decision, or a vote of three-quarters of the WTO membership, in favour. Negotiations on the successor to Lomé will open in September 1998. The EU's Council of Ministers proposes to replace Lomé's trade provisions with free trade agreements that will meet Article XXIV requirements. A declared aim is that the new arrangements should leave ACP countries no worse off than before. To bring a free trade agreement or agreements between the ACP countries and the EU within the terms of Article XXIV's definition of a free trade area may be thought sufficiently difficult even under the present rules. The ACP countries themselves are currently debating whether to seek an easing of the Article XXIV rules so as to allow them to adjust more slowly to free trade, perhaps over 20 years or even more, and to exclude a wider range of products from liberalization. Most seem to recognize that they are unlikely to gain formal changes in the rules, but they hope for some kind of understanding that would allow them the flexibility they seek. Whether or not they succeed in these aims, they constitute a sizeable force, at least in numbers, that seems certain to be allied with the EU in opposition to the efforts of Australia, Hong Kong, Japan and Korea to tighten up Article XXIV's requirements.

15. Intellectual Property

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an even more striking departure from the GATT's field of concern than the GATS. When fully in force it will require each GATT member to apply minimum standards of protection for intellectual property which, in general, exceed the standards set by the Berne and Paris Conventions and other principal

international agreements on the subject. The TRIPS agreement also sets requirements for enforcement of this protection and, as part of the WTO package, is equipped with binding dispute settlement procedures. The agreement constitutes a complex legal system, whose provisions are as yet almost untested and which, for the trade policy officials who operate the other elements of the WTO system, is largely unfamiliar territory.

Although the TRIPS obligations are now in full force for developed countries, they have barely begun to bite for developing countries. Developing countries in general are already under the obligation to provide MFN treatment and national treatment to other WTO members in their protection of intellectual property. If they do not provide patent protection for pharmaceuticals or agricultural chemicals, they must at least allow patent applications to be registered. (India's failure to do this has led to a formal dispute case.) But most TRIPS rules will not apply to them until 1 January 2000, and until 1 January 2005 the rules on patents will not apply to products that at present are not patentable. Countries in transition to a market economy are also given until 1 January 2000 to come into line with TRIPS. Least-developed countries have a still longer transition period, to 1 January 2006, and even then may be allowed further time.

These provisions make TRIPS an outstanding example of a subject on which many developing countries see no need for early negotiations that would presumably extend obligations under the agreement still further. In most respects, they are not yet required to assume even the present obligations, and they anticipate considerable difficulties in meeting these obligations on schedule. The agreement is also one which they accepted with little enthusiasm. The energy displayed by the United States, in particular, in pursuing dispute proceedings for perceived breaches of TRIPS obligations by other members can scarcely encourage them to extend these obligations further. Nor does the manner in which candidates for WTO membership have come under pressure from all the major developed countries to accept and enforce the full TRIPS disciplines with effect from their date of accession, without the benefit of any transition periods.

Nevertheless, there is already a heavy current programme of work under the TRIPS agreement, including some negotiations on specific issues. The TRIPS Council is just finishing a detailed review of the intellectual property legislation of developed countries. This has taken two years, and will be followed in due course by similar review of other countries' legislation, once the January 2000 deadline has passed. Negotiations are required, and will start very soon, on a notification and registration system for geographical indications for wines, and may be extended to spirits. A separate review of experience with TRIPS provisions meant to protect geographical indications for other products is under way, and has the potential to lead to further negotiations. Several developing countries have an interest in the protection of traditional names of their agricultural and other products, as an important marketing tool. Among examples cited as threatened are basmati rice (Pakistan and India) and tequila (Mexico). Starting in 1999, there will be a review of the TRIPS

provision (Article 27:3(b)) that allows countries to exclude plants, animals and biotechnological processes for producing plants and animals from patentability, but also requires some form of protection for plant varieties. An extremely sensitive subject, especially for environmental groups ("No patents on life"), this TRIPS provision has also become a political issue in India, and along with the question of pharmaceutical patents has threatened acceptance of the TRIPS agreement by the Indian legislature. However, there are suggestions that developing countries might gain advantage in an eventual negotiated bargain emerging from the review of 27:3(b): a counterpart to any increase in patent protection for plants and animals could be similar protection of indigenous knowledge. Several other TRIPS issues may require negotiations. Among them is the question, left open in the Uruguay Round, of what protection should be given against "parallel" imports of a genuine product which has not been licensed for sale in the importing country. Any or all of these matters might still be unresolved by January 2000, when a first general review of implementation of the TRIPS agreement will become due, opening up the possibility of wider negotiations on intellectual property issues simultaneously with the scheduled negotiations on agriculture and services.

16. Government Procurement

Work in the WTO on government procurement is proceeding on three separate tracks. Whether they will converge, and even join together, remains to be seen. The first track is the Agreement on Government Procurement (GPA). The second, in the Working Party on GATS Rules, has already been discussed, above, in the context of prospective negotiations on services. The third is a study of transparency in government procurement practices, launched by the 1996 WTO Ministerial meeting.

The GPA is one of the two surviving "plurilateral agreements" (the other concerns trade in civil aircraft) which, although attached to the WTO, bind only those countries which have signed them. Its membership²⁷ consists largely of developed countries. Based on an earlier GATT code, it was greatly expanded in coverage, though not in membership, during negotiations that ran in parallel with the Uruguay Round. Government procurement is not covered by the GATT and GATS, since purchases by governments for their own use are excluded from the general rules of national treatment and of non-discrimination by state-trading enterprises. The GPA opens up, for the benefit only of its signatories, the possibility of tendering for the purchase orders of specified central and sub-central government bodies, public utilities and other services. In structure, it resembles the GATS, with a set of rules whose practical significance depends on the commitments of individual signatories. Its rules govern such matters as tendering procedures, the publication of awards, and the threshold levels above which purchases must be open to competition from other signatories. Members' commitments are set out in appendices which list the purchasing entities covered, and also, in many cases,

²⁷ As of May 1998: Canada; the European Community and its 15 member states; Hong Kong, China; Israel; Japan; Republic of Korea; Liechtenstein; Netherlands (for Aruba); Norway; Singapore; Switzerland; United States.

specifically disallow the benefits of the agreement to some signatories judged not to have offered corresponding access to their own government procurement markets.

The GPA includes provisions meant to increase its attraction to developing countries. For example, they can negotiate the right to impose conditions such as domestic purchase requirements on foreign tenders for government procurement. Nevertheless, few developing countries have shown much interest. Hong Kong signed the original code, but accepted the current agreement only after some delay, having previously expressed distaste for its discriminatory aspects. Mexico and Chile, countries whose economic policies make them basically sympathetic to the aims of the GPA, have stayed outside. Both have expressed their judgement of the agreement in recent trade policy reviews. Chile describes it as “complex, bureaucratic and costly”, and dislikes its failure to provide full MFN treatment; Mexico finds it too limited in membership.²⁸ Nevertheless, both show interest in joining the GPA eventually. Membership will increase in the coming years, if only because countries negotiating their accession to the WTO are routinely asked by the major developed members to commit themselves also to negotiate accession to the GPA, and several have already done so. The signatories are themselves committed to undertake negotiations, not later than the end of 1998 and periodically thereafter, to improve and widen the agreement and to eliminate discriminatory measures and practices. A review process to prepare for the negotiations is under way. Among its agreed objectives is expansion of the membership of the GPA by making it more attractive to other countries. The signatories have invited WTO members and candidates for accession to take part as observers in meetings of the Committee on Government Procurement.

The issue of transparency in government procurement practices was placed on the WTO agenda by a decision in Singapore which established a working party to study the issue, “taking into account national policies”, and to “develop elements for inclusion in an appropriate agreement”. The mention of an agreement makes it clear that negotiations will take place. The working group is making quite good progress in identifying key elements for an agreement, such as full information on national legislation and procedures, as well as on procurement opportunities, tendering and qualification; transparency of decisions on qualification and contract awards; and review of complaints by suppliers. Provided the work does not go beyond transparency, and thus does not attempt to align or liberalize national procurement policies, many developing countries are ready to support it, recognizing that it might save money, contribute to good governance, and even open up export opportunities. Some developed countries hope a transparency agreement might one day be merged with the GPA itself, so that the GPA became a fully multilateral agreement like others in the WTO package. Others think this unlikely.

(c) Subjects covered by later WTO decisions

²⁸ Minutes of TPRB reviews of Chile (WT/TPR/M/28) and Mexico (WT/TPR/M/29)

Work is currently under way in the WTO on four subjects -- trade and environment, trade and investment, trade and competition, and trade facilitation -- that are not covered at present by substantive rules. A decision has just been made to examine a fifth subject, electronic commerce. All five could be taken up in future multilateral negotiations.

1. Trade and environment

The WTO Committee on Trade and Environment has a mandate, most recently renewed by Ministers in Singapore, "to identify the relationship between trade measures and environmental measures in order to promote sustainable development" and "to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system". Work on environmental issues in fact began more than five years ago in the GATT, sparked by disputes concerning trade-related measures taken by governments for environmental purposes. The most celebrated of these concerned a complaint by Mexico against the United States in the early 1990's concerning the latter's ban on imports of tuna caught by fishing methods which endangered dolphin. The GATT panel's ruling in favour of Mexico infuriated environmentalists, many of whom decided that GATT rules and the prospective outcome of the Uruguay Round were an obstacle to saving the planet. For their part, developing countries were generally dismayed by the degree of governmental support won in North America and Europe by environmental arguments, which they saw as an all too convenient cloak for protectionist interests.

The discussion launched in the GATT and carried forward in the WTO has been primarily an effort to foster a degree of mutual understanding of the issues, and incidentally to lower the temperature of the debate, both between governments and between environmentalists (largely represented by non-governmental activists) and the WTO. It has had some success, at least as far as concerns member governments of the WTO. Two issues have emerged as clearly relevant to the WTO rules: the relationship between the WTO and the provisions of multilateral environmental agreements (MEAs), and the fact that environmental objectives are frequently sought through the establishment of technical standards, packaging and labelling requirements, as well as sanitary and phytosanitary restrictions. On MEAs, such as those concerned with phase-out of CFCs and protection of endangered species, there is a clear, and largely North-South, division of view. Most developed countries want prior assurance that action taken under the terms of an MEA cannot be challenged in the WTO. The European Union, in particular, proposes that such action should be recognized as covered by GATT Article XX(b), which allows measures "necessary to protect human, animal or plant life or health", provided they are not used to discriminate unfairly between countries or as a disguised restriction on trade. Developing countries in general wish to retain some possibility of WTO challenge of actions taken under an MEA. They are not fully reassured by evidence that most

MEAs do not have trade provisions, or that no WTO disputes have yet arisen over actions under an MEA. As regards standards-related environmental measures, a central problem, in the view of many developing countries, is that in many cases these aim to enforce requirements that do not concern the product itself, but rather the way in which it is produced, this being seen by them as an unacceptable effort to extend the jurisdiction of the country applying the measure beyond its borders. Beyond these issues, the discussion has included some discussion of how improved WTO disciplines might help to further environmental objectives. Agricultural exporters such as Argentina and New Zealand point, for example, to the role of subsidies in encouraging pollution through excessive use of chemicals on crops, as well as in depletion of fish stocks through overfishing.

Although developing countries have not spoken with one voice in the committee, their views are quite closely aligned. They see no prospective gains, and considerable risks, for themselves from any WTO negotiations on environmental issues. They accept that work in the committee has led to a better understanding of the relationship between trade and environmental issues, but do not believe that it has demonstrated a need to change any WTO rules. Some insist that if intergovernmental agreement is needed on substantive matters, this should be sought directly through MEAs and in bodies such as the International Organization for Standardization which have the necessary specialized knowledge. The point is also made that if the WTO were to become involved in setting environmental standards, it would not only go beyond its area of expertise but would also justify accusations in some developed countries that it is a supranational monster. These views have some support even among developed countries. Nevertheless, most WTO members seem to expect continuing pressure, particularly from the United States but also from Europe, to include environmental issues in future WTO negotiations. EU Commissioner Sir Leon Brittan has proposed a high-level meeting of trade and environment policymakers later this year in Geneva, as a means of breaking out of what is now widely seen as a stalemate in the WTO committee. President Clinton has endorsed this proposal, and reaffirmed the US view that "international trade rules must permit sovereign nations to exercise their right to set protective standards for health, safety and the environment and biodiversity ... even when [the standards] are stronger than environmental norms".²⁹

2. Trade and investment

With the exception of labour standards, the most controversial question at the 1996 meeting of WTO Ministers was whether the WTO should concern itself with investment issues. Controversy was particularly acute because developing countries were themselves divided over the question. The outcome was a decision, carefully balanced and linked with the launch of related work on competition issues, to establish a working group "to examine the relationship between trade and investment", with the explicit understanding that "work undertaken shall not prejudice whether negotiations will be

²⁹ Statement to WTO Ministers, Geneva, 18 May 1998

initiated in the future". The WTO Council is to determine after two years –i.e., in 1999-- how work should proceed, subject again to an understanding that any decision to negotiate new multilateral disciplines would have to be taken by explicit consensus decision. A widely held expectation is that such a decision would most probably be made in the context of broader debate on whether to launch a major round of negotiations in the WTO.

The working group has agreed to discuss a long list of issues grouped under three headings: the implications of the relationship between trade and investment for development and economic growth; the economic relationship between trade and investment; and a stocktaking and analysis of relevant existing international instruments and activities. Drawing on this work, it is to compare existing instruments, identifying possible conflicts and gaps between them; consider advantages and disadvantages of bilateral, regional and multilateral rules on investment, including from a development perspective; consider the rights and obligations of home and host countries and of investors and host countries; and finally consider the relationship between whatever cooperation might be undertaken on investment policy and cooperation on competition policy. Although the discussion has far to go, most participants feel that it is progressing well, with many good papers submitted by delegations, and an interesting exchange of experience and views.

So far, there is no sign that government attitudes to a possible WTO agreement on investment are shifting. The initiative for action in the WTO came from a group led by Canada and also including Japan, Morocco and Peru. The strongest resistance was expressed by Malaysia, Indonesia and India. A major complicating factor has been the US preference for the efforts in the OECD to develop a Multilateral Agreement on Investment (MAI). Drafting of the MAI was already well advanced when the WTO working group was set up. In the event, agreement was not reached, as had been expected, in May 1997; renewed efforts to reach agreement by May 1998 also failed; and it seems an open question whether or not the MAI negotiations are now effectively dead. The differences between the United States and other OECD members that have prevented agreement on the MAI are in fact all familiar also in the WTO: the desire to limit extraterritorial action such as required by the Helms-Burton and d'Amato Acts, French demands for a "cultural" exception, a major issue in the Uruguay Round negotiations on services, and whether labour and environmental considerations should be included. As long as an early agreement on the MAI has been in prospect, the United States and other countries which favour strong provisions to encourage investment flows have had little incentive to pursue an agreement in the WTO that would be likely, from their point of view, to be significantly weaker, since it would have to accommodate the views of the rest of the WTO's membership. They have been encouraged in this by the declared interest of Argentina, Brazil, Chile, Hong Kong and Hungary in signing the MAI. Views on what may happen if the MAI is shelved indefinitely differ sharply. Some foresee a general loss of interest in developing multilateral rules for investment, and perhaps a shift of focus towards formulating non-binding principles in the context of regional agreements such as APEC. Others, including several OECD members, believe and hope that new life

may be breathed into the WTO process, helped by the greater legitimacy that could be claimed for a multilateral investment agreement shaped by the efforts of a wider and more representative group than the OECD.

Developing-country views on the desirability of WTO rules on investment vary widely, even though, as many point out, almost all of them now seek to attract foreign investors. At one extreme, Malaysia and some others take positions which (in the words of a developing-country representative) are shaped essentially by ideology: for them, it is a matter of national sovereignty to be able to attract, and choose between, foreign investments in the light of their judgement of the country's priority needs. Malaysia argues that bilateral investment treaties, of which it has nearly 60, are sufficient to protect and promote investment. Other countries are not opposed in principle to a multilateral investment agreement, but say they have yet to be convinced that one is needed. They feel a practical need to retain some policy flexibility so that they can encourage investment in particular regions or continue to favour local firms or local participation. Their arguments are similar to those deployed to prevent a broad TRIMs agreement from emerging from the Uruguay Round. They also argue that the United States expects MFN and national treatment for its foreign investors, and that the European Union expects other countries to forswear any policy direction of investment, but that neither appears to contemplate any counterpart obligation. (China is seen as a potential key member of this group, following its accession to the WTO, unless it accepts constraints on its investment policies in the context of the accession process.) At the other end of the scale, Latin American countries, Hong Kong and Korea are strongly interested in subscribing to a multilateral investment agreement, primarily as a means of attracting foreign investors. Africa is simply not present in the debate.

Virtually nothing has yet been said about possible provisions of a WTO investment agreement. A common assumption is that it would necessarily be less ambitious than the draft MAI, which has been under negotiation essentially among developed countries. One line of thought, responding to the view that source nations should accept counterpart obligations to those expected of host countries, envisages commitments to encourage outflows – but recognizes that this may be impracticable in the face of growing public hostility in some developed countries to outward investment.

3. Trade and competition

Trade and competition was placed on the WTO agenda in conjunction with trade and investment. As with investment, the subject is to be studied in a working group up to the end of 1998, with a decision in 1999 by the General Council on how to proceed further, and with an understanding that any negotiations will take place only after an explicit consensus decision by WTO members.

The group is working on lines similar to those adopted by the group on trade and investment. Under a first main heading, it is discussing the relationship between the objectives, principles, scope and

instruments of trade and competition policy, and the relationship of trade and competition policy to development and economic growth. Second, it is reviewing the content and application of national competition policies and laws related to trade, relevant WTO provisions, and international agreements and initiatives. Third, it is looking at the interaction of trade and competition policy, including the impact of anti-competitive practices of enterprises and associations on international trade, the trade impact of state monopolies and regulatory policies, the relationship of intellectual property rights and of investment with competition policy, and the impact of trade policy on competition. Finally, it will identify “any areas that merit consideration in the WTO framework”. As in the case of investment, participants in the working party have produced a large volume of papers and statements. However, there appears to be a widespread view that the issues involved are more complex, and less well understood, than in the case of investment, and that in consequence a long process of mutual education may be needed before many countries will feel able to subscribe to any conclusions.

The prime mover and continuing enthusiast for involving the WTO in competition issues is the European Union, but it has considerable developing-country support. The United States is a reluctant participant, willing to join in a study program, but at present clearly sceptical that WTO negotiations on competition rules are desirable. It doubts that there is sufficient agreement among WTO members on basic goals for competition policy, or sufficient practical experience of anti-trust matters in most countries, to build a useful multilateral agreement. Sir Leon Brittan, the European Commissioner for External Trade, argues that companies will be increasingly tempted to resort to anti-competitive actions as tariff and other protection is reduced. He has spelled out ideas for such an agreement, which could in his view include a commitment by WTO members to enact effective domestic competition legislation, guaranteed access to national courts without discrimination between domestic and foreign firms, and basic standards of enforcement such as transparency of proceedings, the application of sanctions, and an effective competition authority.³⁰

Developing countries tend to be attracted by the idea of cooperation to deal with abuses by multinational companies, a theme they have pursued for many years in the context of the United Nations. Some (notably Hong Kong) argue that mutually consistent trade and competition policies, including the incorporation of additional competition concepts into the WTO system, could reduce the need for government trade measures that discriminate against competitive suppliers, and in particular for anti-dumping action.³¹ (Not all developing countries agree with Hong Kong’s approach: one argues privately that insistence on prior agreement to review the WTO anti-dumping rules could block

³⁰ Speech in Washington DC on 20 November 1997 (*European Report*, 22 November 1997). Similar arguments were set out by Mr Karel Van Miert, the EU Commissioner for competition issues, in a speech in Geneva on 21 April 1998 (*Agence France Presse*, 21 April, and *Wall Street Journal*, 22 April).

³¹ Submission to the Working Group on the Interaction between Trade and Competition Policy (WT/WGTCP/W/50)

the possibility of negotiations on competition.) Those Latin American countries which are ready to subscribe to commitments on investment tend also to favour negotiations on competition issues. Other developing countries, however, conscious that they have no competition legislation of their own or that what they have goes unenforced, are hesitant.

Whatever their views, developing countries tend to agree that broad-ranging WTO negotiations on competition are unlikely within the near future. They believe it will take some years, at best, to establish sufficient common ground for fruitful negotiations. Some suggest, however, that it might be possible to take up one or two well-defined issues, perhaps in the context of the review of the TRIMS agreement in 1999.

4. Trade facilitation

Unlike the three preceding subjects, trade facilitation is essentially uncontroversial. It too was added to the WTO work program by a Ministerial decision in Singapore that was adopted as the result of an initiative by the European Union. The WTO's Goods Council is required "to undertake exploratory and analytical work, drawing on the work of other relevant international organizations, on the simplification of trade procedures in order to assess the scope for WTO rules in this area". The final phrase clearly foreshadows negotiations on the subject.

The essence of the EU proposal is that the WTO should explore the possibility of developing rules that would give teeth to the efforts of a number of organizations to reduce practical problems encountered by international traders, particularly in completing formalities at the border. The key agreement in this respect is the Kyoto Convention of 1973, administered by the World Customs Organization. The Convention has some 55 signatories, but each has accepted only a few of the 30 annexes that set out substantive obligations. The other main relevant organizations are UNCTAD, ECE, APEC and the International Chamber of Commerce. So far, work in the WTO has not gone beyond assembling information³² about the efforts of these organizations to simplify trade procedures, and holding a symposium on the subject in March 1998 which demonstrated the keen practical interest of the business community. The European Union has recently developed its ideas, proposing that the WTO could develop a legal instrument that would bind members to adopt a central core of the more widely accepted international agreements on trade facilitation, and particularly a revised version of the Kyoto Convention. The EU also suggests efforts to establish the data requirements for a single document in electronic format that would permit customs procedures worldwide to be streamlined.

Most countries are ready to explore the implications of the EU proposal, although (in the words of one developing-country delegate) "there are quite a few sceptics". The United States has been

³² WTO document G/C/W/80.

unenthusiastic, arguing that the WTO has enough of its own to do in related areas such as rules of origin, preshipment inspection and helping developing countries to adapt to the customs valuation agreement. However, it has acknowledged, following the March symposium, the support shown by private business for WTO involvement in the subject.

5. Electronic commerce

This is a brand new subject for the WTO, and little can be said about it. It was first raised by the United States in the WTO Council in February 1998, as a proposal that member countries should undertake to continue the present practice under which none of them imposes customs duties on electronic transmissions. The United States argued that electronic commerce was growing dynamically, and that the WTO should demonstrate support for its continuing expansion; that no precedent would be set for taxation or regulation in the sector; and that the proposal would simply codify present practice and provide a starting point for WTO study of other aspects of electronic commerce. It was emphasized that the proposal would not apply to goods imported through normal commercial channels, even if these were ordered over the Internet or by other electronic means. Other WTO members agreed that electronic commerce was a subject of importance, but were unready to pledge themselves never to impose import duties on it, particularly without studying the possible fiscal and revenue implications of such self-denial. As a result of continuing US pressure, WTO Ministers formally agreed in May 1998³³ that the organization should study “all trade-related issues relating to global electronic commerce”, taking into account the economic, financial and development needs of developing countries, and draw up recommendations for the next Ministerial Conference. This means that the results of the study will inevitably be an input into the broader decision by Ministers in 1999 on whether to launch broad-ranging new negotiations. At least until the 1999 meeting, WTO members have agreed not to introduce customs duties on electronic transmissions. Any extension of this decision will require a consensus decision.

Only the US government seems, as yet, to have taken a firm position on the subject. When the subject was first broached, Egypt, India, Nigeria and Pakistan raised a number of questions and objections, including the risk of discrimination in favour of electronic commerce over traditional forms of trade, potential loss of government revenue, and the particular issue of sound recordings. In general, however, developing-country views have not evolved far beyond reluctance to close off definitively a possibly lucrative source of income, and a degree of irritation with the United States for forcing an inadequately-considered decision in the WTO.

(d) Labour standards

The subject of labour standards is not, for the present at least, on the WTO's agenda, but is very much in the minds of the organization's member governments.

An effort was made in December 1996 by the United States and France, with Norwegian support, to secure inclusion in the Singapore Ministerial declaration of a commitment to core labour standards. This was strongly opposed by developing countries, led by Malaysia, India, Pakistan and Egypt. The negotiated outcome was a text that expresses support for observance of "internationally recognized core labour standards" and identifies the International Labour Organization as the competent body to set and deal with these standards. The statement goes on to reject the use of labour standards for protectionist purposes, and to "agree that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question". In addition, a negotiated interpretative statement read out by the chairman of the Singapore meeting stated explicitly that the issue of labour standards was not on the WTO's agenda, that no new work on the subject in the WTO had been organized, and that the WTO had no competence in the matter.

Since the meeting, there has been no discussion of the issue in the WTO. Within the ILO, however, difficult negotiations led to agreement, at the organization's annual conference in June 1998, on a "Declaration on Fundamental Workers' Rights" which in its trade aspects essentially says much the same as the Singapore text. Any effort by the United States or others to raise the issue again in the WTO would undoubtedly be resisted very strongly by developing countries: one delegate active in efforts to coordinate their positions in the WTO believes that it could result in a breakdown in relations. President Clinton was evidently aware of these views in his comments on the subject in his speech to WTO Ministers in May 1998. Although he called on the WTO and the ILO to "commit to work together, to make certain that open trade lifts living conditions, and respects the core labour standards that are essential not only to workers rights but to human rights everywhere", and asked the two organizations' secretariats to discuss the issues together, he spoke of concrete action only in the context of the ILO.

III: TOWARDS A NEW ROUND ?

The preceding section has surveyed some two dozen possible subjects for future WTO negotiations. With a slightly different categorization, with a separate review of some cross-cutting issues such as the treatment of least-developed countries, and with a little further help from governments (the United States raised the question of electronic commerce in the WTO while this paper was in preparation) the

³³ *Declaration on Global Electronic Commerce*, May 20, 1998. The WTO Secretariat has provided a survey of issues involved in *Electronic Commerce and the Role of the WTO* (Geneva, WTO, 1998)

figure could reach 30 or more. But does this long list of issues add up to the likelihood of a new negotiating round in the WTO?

A strong hint at the answer has just been provided by the May 1998 declaration of WTO Ministers. This has undoubtedly made wide-ranging negotiations more likely. The WTO's General Council is now charged with drawing up a work programme that can extend to all the subjects surveyed in this paper; all member countries have consented to this work; the Council's recommendations are to include "further liberalization sufficiently broad-based to respond to the range of interests and concerns of all Members"; and the work programme is to "be aimed at achieving overall balance of interests of all Members". The United States, an essential participant in any major GATT or WTO round, has shifted position towards support of new negotiations. However, eventual agreement on recommendations on a work programme is explicitly subject to the condition of consensus agreement among WTO members, a condition without which many developing countries would not have signed up to the declaration; the words "round" and "single undertaking" are nowhere to be found in the text; and the United States has obvious misgivings about engaging in another full-scale round, and still has no negotiating authority from the Congress.

A clearer response may perhaps best be sought in a review both of the issues themselves and of the views of individual governments.

The potential issues for negotiation comprise every subject discussed in the Uruguay Round, plus one (government procurement) that was discussed only among a limited number of governments, and half a dozen more (environment, investment, competition, trade facilitation, electronic commerce and labour standards) that have surfaced since. However, the preceding issue-by-issue review suggests that some are not likely to figure in even a full-scale new WTO round, and that others would probably do so only marginally.

There are only two major certainties: agriculture and services. It is widely thought that a negotiation confined to agriculture would not get far, since it would provide little opportunity for balanced give-and-take. This provides an incentive, from the point of view of both developed and developing exporters of agricultural products, for taking up other subjects at the same time. Services negotiations are perhaps potentially more balanced among the developed countries, but many developing countries see little to gain. On both subjects, a preparatory process for the negotiations is now under way.

Two other subjects – tariff negotiations and government procurement – appear near-certainties, if a broad WTO negotiation is launched. Further tariff liberalization could help to create a balance of interests. The scope for sweeping tariff cuts is not what it was, particularly after the cherry-picking sectoral exercises of the last few years, and remaining tariff peaks tend to be concentrated in the difficult trade sectors of agriculture and food, textiles and clothing. Nevertheless, most countries can

still identify areas in which tariff reductions in export markets would be helpful. Many developing countries possess useful negotiating coin, which could buy advantages in other areas of a broad negotiation, in the scope they have to bind their own tariffs at levels nearer to those they actually apply. This is familiar territory for WTO negotiators, who should be able to make the necessary technical preparations fairly quickly. The signatories of the government procurement agreement are pledged, and generally keen, to negotiate among themselves, and may be prepared to make interesting concessions on other subjects to tempt a few more developing countries into their club. They too are preparing to negotiate quite soon.

Beyond these four subjects, it is harder to discern the ingredients of a new round. Under the Uruguay Round's built-in agenda, there are negotiations or reviews to come on a wide range of subjects. Some, however, are essentially uncontroversial or self-contained. Others might be caught up in a new round if full agreement could not be reached independently (the current negotiations on rules of origin are an example), or if the prospect of a broader negotiation, with the potential for give-and-take between different sectors, encouraged a higher level of ambition. This might apply to TRIPS, subsidies, the SPS agreement and state trading. Any negotiations on dispute settlement, technical barriers to trade, anti-dumping, preshipment inspection, and the rules for regional trade agreements seem likely to be unambitious. No one, apparently, seeks to open up the WTO agreement itself, the trade policy reviews, or the existing rules on TRIMS, safeguards, customs valuation or import licensing. Of the subjects taken up in Singapore, transparency in government procurement, and also trade facilitation, seem relatively uncontroversial and straightforward. Both could be taken up for negotiation as independent subjects, or included in a new round. Investment and competition policy need much more work in the WTO before negotiations would be possible: of the two, investment seems the more credible candidate for negotiation both because the issues appear clearer and because a wider range of key countries is interested. Not much seems likely to happen on trade and environment, unless developed countries press very hard. Of the other subjects discussed, electronic commerce might well make it into a new round in some form. The inclusion of labour standards would be resisted by all developing countries and most developed countries too, but could figure nevertheless (along with environmental issues and the question of institutional transparency) in any negotiating mandate given to the US Administration.

In summary, there is clearly subject-matter available for a major negotiating round from 2000 onwards, if WTO members decide to bring together in a single enterprise the major tasks to which they are already committed. However, even with the addition of investment, or of other issues now under study in the WTO, a new round would be unlikely to rival in significance the Uruguay Round, which made fundamental changes in the rules and institutions of the multilateral trading system. (Fortunately, it would be unlikely also to rival the Uruguay Round in length or in the effort and commitment required to bring it to success.) Equally clearly, there is no certainty that a new round will take place. The only broad negotiations definitely scheduled are those on agriculture and services

from 1999/2000. Even these negotiations might not amount to much. It should be remembered that they are only the first instalment of longer-term programmes of agricultural reform and services liberalization to which WTO members are committed. The near-certainty that further rounds of negotiations would take place on both subjects might make participants willing to accept a limited outcome, particularly if leading participants had no authority to negotiate significant liberalization.

The issue of negotiating authority may be crucial to prospects for negotiations in the WTO. No one doubts that effective participation by the United States is essential to the success of any broad-ranging WTO negotiation. Until the US Administration is armed with fast-track negotiating authority, which provides essential reassurance that any agreements reached in Geneva will not be reopened by the Congress, America's negotiating partners are most unlikely to enter into serious bargaining on a package of politically sensitive and complex issues. The present situation, in which the Administration has withdrawn a first request for fast-track because of Congressional hostility but promises to try again, creates a great deal of uncertainty.

With or without fast-track, the attitude of the United States towards a new multi-subject negotiation remains ambiguous. It has successfully championed recent sectoral negotiations in the WTO, taking a hard and ultimately successful line in the services negotiations on basic telecoms and financial services, winning rapid agreement on the Information Technology Agreement, and pushing for an extension of the ITA's coverage. President Clinton's May 1998 speech to WTO Ministers showed a continuing faith in the sectoral approach, particularly to the dismantling of tariffs, as well as impatience with the hallowed GATT principle of the "single undertaking" ("waiting for every issue in every sector to be resolved before any issue in any sector is resolved"). The United States is using the leverage provided by negotiations on the accession of new members to the WTO to ensure that these countries, including China and Russia, accept much broader market-opening commitments than have been accepted by most developing countries. As far as concerns the WTO rules, the United States appears largely content with the texts of the present agreements, and gives priority to ensuring that other WTO members bring them into effect fully, and on schedule. Outside the context of the WTO, it is engaged in several regional initiatives, notably in APEC, where it is again favouring a sectoral approach. In spite of all this, there are good reasons for the United States to favour, and even provide leadership for, a new WTO round. The suspension of the ITA 2 negotiations, and difficulties in following through on earlier APEC decisions, suggest that the scope for further sectoral negotiations may be limited. The coming agriculture and services negotiations play to American strengths, but may not prove productive unless linked with other subjects that will allow some degree of give and take. Among other possible subjects for negotiations are several in which the United States has a strong positive interest: market access, government procurement, state trading, investment, intellectual property and environmental issues.

Members of the European Union, the other centrally important player in any WTO round, have now given their support to Sir Leon Brittan, who has taken the lead in calling for a Millennium Round in the WTO. The EU shares many of the interests of the United States, but will be on the defensive in the agricultural negotiations, and preoccupied with what are bound to be long drawn-out negotiations on its own enlargement. This declaration of principle is important, but internal discussion of what the EU would seek in a new round, has not really begun.

The other developed countries also tend to share interests with the US and EU. Those that are members of the Cairns Group (Australia, Canada and New Zealand) recognize that the coming negotiations on agriculture are likely to be more fruitful if included in a broader package. Australia and New Zealand are firm partisans of a new round. Canada is doubtful, and is proposing what it calls a "cluster approach", in which issues would be grouped together for negotiation as distinct packages and at different times. (The United States has shown some interest in this idea.) Most of the remaining developed countries, generally traditional supporters of open market and a multilateral approach to trade problems, have also in recent months declared their support in principle for new negotiations.

Although many transition economies are negotiating for WTO membership, comparatively few are already members, and thus in a position to influence debate on a new round. Most are expected to take their cue from the European Union.

Among developing countries, present views on possible new negotiations range from almost entirely negative to enthusiastic, with the majority somewhere in between, but still on balance probably more negative than positive. Most WTO delegates, however, have been stressing for some time that their governments have yet to take a firm position, and will do so only when the major developed countries show their hands. Statements of some developing-country representatives at the May 1998 WTO Ministerial meeting seemed to reflect and follow the perceptible shift of the developed countries towards support of new negotiations.

The argument most commonly advanced by developing countries against new negotiations is that they still face a huge task in bringing their trade policies into line with the requirements of the Uruguay Round agreements. Negotiations starting around 2000 would come before the end of the transitional periods granted to them under several agreements, and long before they expect to become accustomed to applying the new rules. They can fairly point out that, in such areas as intellectual property, technical standards and customs valuation, the practices of most developed countries were already close to those prescribed by these rules. Many developing countries are by comparison starting almost from scratch: they need to introduce new laws and new administrative measures, and to reinforce their administrative and judicial capacity to apply them. India and Egypt, both prominent voices in the WTO as they were in the GATT, are among the countries which argue most strongly that acceptance

of the Uruguay Round results represented an unprecedented level of commitment, that they need time to absorb the consequences for both bureaucratic and political reasons, and that in these circumstances it would be counterproductive to rush into another round of negotiations. They find support among the least-developed countries, and also in Asia, especially in ASEAN. Brazil has taken a similar line, although its position is now that it supports new negotiations, as long as these do “not take place before the commitments undertaken in the Uruguay Round are implemented, so as not to upset the balance of the concessions agreed to at that time.”³⁴

Even these countries, however, acknowledge that there could be positive aspects to a new round. Those who are agricultural exporters (and four ASEAN countries, and Brazil, are in the Cairns Group) recognize the arguments for a broader negotiation, with enough other elements to make constructive trade-offs possible. Others see scope for special and differential treatment of developing countries in the agricultural negotiations, including further action to avoid damage to the net food importing countries. Many countries would join with interest, though perhaps not much optimism, in market access negotiations aimed at cutting tariff peaks and tariff escalation affecting textiles, clothing, shoes and other products of developing countries, and in negotiations on services if these held promise of easing movement of natural persons (Mode 4). If negotiations extended to review of WTO rules, this would provide the opportunity for India to enlist support for its view that “some of the agreements contain certain inequities which were not foreseen” and that these “should be looked into and necessary amendments carried out”³⁵.

The strongest developing-country support comes from Latin America (notably from Argentina, Colombia and Mexico) and from Hong Kong. These countries argue for a new round of multilateral negotiations for a variety of reasons. One is essentially a re-statement of the traditional “bicycle” view of the GATT: it must keep moving forward to stay upright.³⁶ Another is their dislike of the currently fashionable sectoral approach. Regional moves towards free trade encourage them to press for multilateral liberalization: Hong Kong is worried that the relevance and authority of the WTO system will be diminished unless it keeps pace with regional developments; Mexico, as a participant already in NAFTA and in free-trade agreements with other Latin American countries, feels that it can easily take on similar commitments in the WTO. They tend to favour a broad and ambitious agenda for negotiations because they have a comparatively wide range of national trade interests, which they believe will be best served in the context of a single undertaking that offers something for all participants, and allows trade-offs.

³⁴ Statement by President Fernando Henrique Cardoso, Geneva, 19 May 1998

³⁵ Statement to the WTO General Council by India, 10 December 1997 (WT/GC(97)/ST/10).

³⁶ Statement to the WTO General Council by Argentina, 10 December 1997: “It is necessary to maintain the momentum in the general trend towards the liberalization of international trade and to avoid the growing pressures we are seeing on the part of some of the major trading powers that seek to slow down this trend.” (WT/GC(97)/ST/3).

A deep division persists, as during the Uruguay Round and its predecessor the Tokyo Round of the 1970s, as to whether developing countries should as a matter of principle insist on receiving special and differential treatment in the conduct and results of multilateral trade negotiations. India, Egypt, Pakistan, most African countries and other least-developed countries continue to argue that "S&D" treatment is justified by the needs of developing countries, and should be pursued and granted wherever practicable. Some other developing countries continue to pay lip service to this view. Higher-income developing countries in Asia and Latin America now mostly think it mistaken, both as a matter of economic policy and as a negotiating technique. In the Tokyo Round, insistence by almost all developing countries on S&D, and consequent refusal to accept new GATT obligations or to offer reciprocal trade concessions to developed countries, largely reduced them to the role of impotent bystanders. Developed countries negotiated among themselves, taking the view that those who would give nothing need be offered nothing. The outcome was that although the reticence of developing countries prevented changes in the GATT rules (instead, a number of "codes" on dumping, subsidies and other matters were accepted by a limited number of countries), it could not prevent market access negotiations which inevitably yielded liberalization mainly in trade sectors of interest to developed countries. In the Uruguay Round, developing countries took a much fuller part in the negotiations, and although some maintained the rhetoric of S&D, this was scarcely reflected in the results. The Tokyo Round experience is relevant in gauging the extent to which developing countries opposed to new negotiations would be able to block them. Determined opposition could prevent negotiation of new WTO rules applicable to all member countries, and could block changes even to those existing rules that will be reviewed under the "built-in agenda". It could not, however, prevent market-opening negotiations among interested countries, provided the results were applied on an MFN basis. It might also encourage negotiation of new limited-membership codes, for instance on investment, which at least some developing countries could be expected to join.

With such a range of disparate views and concerns, developing countries are in no position to speak with a single voice in the WTO. Meetings of the Informal Group of Developing Countries, a body carried over from the GATT, provide regular opportunities to brief one another and exchange views on developments, but no more. Beyond this, some developing-country delegates are seeking to build ad hoc coalitions of countries with a shared interest in particular issues, with the aim of presenting a common front in whatever forum may be relevant. One such grouping has been involved in the work on labour standards in the ILO; others are understood to have discussed agricultural issues, competition, dispute settlement, possibilities of special and differential treatment for developing countries, and the concept of a new WTO round. A particular effort is being made to identify "positive issues" -- i.e., those on which negotiations in the WTO might yield clear gains for developing countries. To the extent that these efforts succeed, developing countries will be better placed to participate in defining the content of any future round of negotiations, rather than (as so often at present) simply reacting to initiatives from the major developed WTO members. Such coalitions could also play a part in the negotiations themselves. Experience in the Uruguay Round

was that some of the most influential proposals came from small groups of countries, both developed and developing, who had identified a promising approach and worked on it together before presenting their ideas to other participants.

At present, however, textiles and clothing is the sole WTO issue on which developing countries are sufficiently united to express their views through a single spokesman and jointly-submitted documentation. Developing countries account for a majority of the Cairns Group, which in spite of divergent interests at the level of some individual commodities has made effective common cause for agricultural liberalization and reform. Also in the area of agriculture, the net food importers succeeded in making their position known in the Uruguay Round, to some effect, and will presumably do so again in the coming agricultural negotiations. Otherwise, the expectation is that groupings of developing countries for the purposes of negotiation will be regionally based. The ASEAN countries have worked closely together in the WTO and the GATT, and frequently use a single spokesman. As a customs union, Mercosur is expected to negotiate as a unit: this will require its members to work out a common position on every issue, but will also increase its influence. There is speculation that the Southern African countries might coordinate their views, and thereby make their collective voice heard.

More than one developing-country representative suggests that any new round of negotiations in the WTO would be more acceptable if built "from the bottom up", rather than "top down". Even those who believe that linkages between issues are inevitable, and probably helpful, would prefer that a negotiating package emerge gradually and naturally, rather than through a political initiative such as launched the Uruguay Round. They recognize, however, that the major developed countries may need such an initiative to launch a new round at all. On this point, as on others, developing countries acknowledge, in the words of one prominent delegate, that "we shall have to see how the Europeans and the United States play it".

Policy Research Working Paper Series

Title	Author	Date	Contact for paper
WPS1965 Manufacturing Firms in Developing Countries: How Well Do They Do, and Why	James Tybout	August 1998	L. Tabada 36869
WPS1966 Sulfur Dioxide Control by Electric Utilities: What Are the Gains from Trade?	Curtis Carlson Dallas Burtraw Maureen Cropper Karen L. Palmer	August 1998	T. Tourougui 87431
WPS1967 Agriculture and the Macroeconomy	Maurice Schiff Alberto Valdés	August 1998	A. Valdés 35491
WPS1968 The Economics and Law of Rent Control	Kaushik Basu Patrick Emerson	August 1998	M. Mason 30809
WPS1969 Protecting the Poor in Vietnam's Emerging Market Economy	Dominique van de Walle	September 1998	C. Bernardo 31148
WPS1970 Trade Liberalization and Endogenous Growth in a Small Open Economy: A Quantitative Assessment	Thomas F. Rutherford David G. Tarr	September 1998	L. Tabada 36896
WPS1971 Promoting Better Logging Practices in Tropical Forests	Marco Boscolo Jeffrey R. Vincent	September 1998	T. Tourougui 87431
WPS1972 Why Privatize? The Case of Argentina's Public Provincial Banks	Geroge R. G. Clarke Robert Cull	September 1998	P. Sintim-Aboagye 38526
WPS1973 The Economic Analysis of Sector Investment Programs	Sethaput Suthiwart- Narueput	September 1998	C. Bernardo 31148
WPS1974 Volatility and the Welfare Costs of Financial Market Integration	Pierre-Richard Agénor Joshua Aizenman	September 1998	S. King-Watson 33730
WPS1975 Acting Globally While Thinking Locally: Is the Global Environment Protected by Transport Emission Control Programs	Gunnar S. Eskeland Jian Xie	September 1998	C. Bernardo 31148
WPS1976 Capital Flows to Central and Eastern Europe and the Former Soviet Union	Stijn Claessens Daniel Oks Rossana Polastri	September 1998	R. Vo 33722
WPS1977 Economic Reforms in Egypt: Emerging Patterns and Their Possible Implications	Rania A. Al-Mashat David A. Grigorian	September 1998	S. Dy 32544
WPS1978 Behavioral Responses to Risk in Rural China	Jyotsna Jalan Martin Ravallion	September 1998	P. Sader 33902

Policy Research Working Paper Series

	Title	Author	Date	Contact for paper
WPS1979	Banking on Crises: Expensive Lessons from Recent Financial Crises	Gerard Caprio, Jr.	September 1998	P. Sintim-Aboagye 38526
WPS1980	The Effect of Household Wealth on Educational Attainment: Demographic and Health Survey Evidence	Deon Filmer Lant Pritchett	September 1998	S. Fallon 38009
WPS1981	Evaluating Public Expenditures When Governments Must Rely on Distortionary Taxation	James E. Anderson Will Martin	September 1998	L. Tabada 36896
WPS1982	Analyzing Financial Sectors in Transition: With Special Reference to the Former Soviet Union	Alan Roe Paul Siegelbaum Tim King	September 1998	D. Cortijo 84005
WPS1983	Pension Reform in Small Developing Countries	Thomas Charles Glaessner Salvador Valdés-Prieto	September 1998	M. Navarro 84722
WPS1984	NAFTA, Capital Mobility, and Mexico's Financial System	Thomas Charles Glaessner Daniel Oks	September 1998	M. Navarro 84722
WPS1985	The Optimality of Being Efficient: Designing Auctions	Lawrence M. Ausubel Peter Cramton	September 1998	S. Vivas 82809
WPS1986	Putting Auction Theory to Work: The Simultaneous Ascending Auction	Paul Milgrom	September 1998	S. Vivas 82809
WPS1987	Political Economy and Political Risks of Institutional Reform in the Water Sector	Ariel Dinar Trichur K. Balakrishnan Joseph Wambia	September 1998	F. Toppin 30450
WPS1988	The Informal Sector, Firm Dynamics, and Institutional Participation	Alec R. Levenson William F. Maloney	September 1998	T. Gomez 32127
WPS1989	Contingent Government Liabilities: A Hidden Risk for Fiscal Stability	Hana Polackova	October 1998	A. Panton 85433
WPS1990	The East Asia Crisis and Corporate Finances: The Untold Micro Story	Michael Pomerleano	October 1998	N. Dacanay 34068
WPS1991	Reducing Air Pollution from Urban Passenger Transport: A Framework for Policy Analysis	Mark Heil Sheoli Pargal	October 1998	R. Yazigi 37176